

**KNOXVILLE CONVENTION CENTER USE AGREEMENT**

This License "agreement" made this Day day of Month, 20\*\* by and between SMG ("Operator"), and

**Company**

whose address is:

**Address**

**Attention: ContactNameTitle**

("Licensee").

**WITNESSETH:**

Operator manages, operates and maintains the Knoxville Convention Center, 701 Henley Street, Knoxville, TN 37902, on behalf of the City of Knoxville, a Tennessee municipal corporation (the "City"), under rights granted by and obligations imposed under an agreement between the City and Operator.

1) **Premises and Terms:** Operator hereby licenses to the Licensee, and the Licensee hereby licenses from the Operator the following described property, hereinafter referred to as the "Premises," to wit in the Knoxville Convention Center.

Move-in:

Show:

Move-out:

Licensee to have and to hold the above-described premises for the term of Number (#) days, commencing on StartDate at StartTime EST, and terminating on EndDate at EndTime EST.

2) **Use:** Licensee shall use the premises solely for the purpose of: EventName

3) **Services:** Operator agrees to furnish normal janitorial service in public areas (excluding exhibit show floor cleaning), air conditioning during show hours, worklights (50% power) during move-in and move-out; full houselights during show hours and the following services. Further services, rentals, and assigned costs are outlined in the Event Guide.

If stated below, the Operator will furnish the following additional services, equipment, materials, technicians, etc., on the following terms and conditions:

Each Meeting Room and Section of the Ballroom will include the following at no charge:  
(first set only\*, as inventory allows)

- 2 Clothed and skirted 8' or 6' tables
- 1 Lectern, table-top or free-standing
- 1 Riser section, skirted
- 1 Electrical outlet, 5 amp

\* Labor charges will apply if any set movements or room turns are needed.

Estimated Equipment and Services\*:

each	=	\$	
each	=	\$	
each	=	\$	
each	=	\$	
each	=	\$	
<b>TOTAL</b>	<b>\$</b>		<b>total</b>

\*Additional Equipment and/or Services will be charged at standard rate.

Enclosed Event Guide

- 4) **Rent:** Licensee shall pay, without demand, together with any and all sales, use and state taxes arising or accruing during the term of the agreement on the following basis:

The Licensee hereby covenants and agrees to pay the following rentals, or such higher rentals as shall be approved by SMG on or before 120 days prior to the date Licensee takes occupancy under this agreement.

**Space Rental Rate:** Total space rental rate is \$\*\* based on:

/day	=	\$	
/day	=	\$	
/day	=	\$	
/day	=	\$	
/day	=	\$	
/day	=	\$	
/day	=	\$	
/day	=	\$	
/day	=	\$	
<b>TOTAL</b>	<b>\$</b>		<b>total</b>

Applicable local, state & federal taxes will apply.

**Estimated Food & Beverage:** Based on attendance of # people Food and Beverage charges have been estimated at \$\*\*\*, subject to a 20% service charge and applicable TN State Sales Tax which is currently 9.25%. A Banquet Event Order (B.E.O.) will be prepared, signed by licensee and incorporated in this license agreement at a later date and may alter the estimated price for food, beverages and/or services based on menu selections. Deposits for Food & Beverage are to be paid no less than three (3) weeks prior to event (as described in this Agreement under section 1: Premises).

If applicable, a food and beverage credit will be issued toward space rental rate, above a \$500.00 minimum, in which a Food & Beverage catered event has occurred, based on the following calculation. These potential credits will be calculated upon completion of the Food & Beverage event, based on the guarantees of each function against the daily space rental. Move-in and move-out days and Exhibit Halls are not included in the Food and Beverage credit.

<u>Food &amp; Beverage Revenue is</u>	<u>% Off Net Space Rental</u>
3x higher than standard space rental	= 50% off
4x higher than standard space rental	= 75% off
5x higher than standard space rental (Excluding tax & gratuity)	= 100% off

This credit will be applied on the post event settlement.

**Deposit Due:** \$\*\*\* payable along with the signing of this Agreement no later than **date** or this Agreement shall be considered null and void; \$\*\*\* payable by **date**; \$\*\*\* payable by **date**; any remaining balance, plus all applicable state, county, and applicable taxes, Tennessee State Rental Tax, which is currently 9.25%, is payable at settlement with Finance Department.

Rent shall be paid to: SMG - Knoxville Convention Center, P.O. Box 2543, Knoxville, Tennessee 37901-2543. Licensee also covenants and agrees to pay interest at the rate of eighteen (18%) percent per annum for any payment of rent due and payable and not received by Operator on or before thirty (30) days from due date. Time is of the essence in this agreement.

Final Balance shall be due upon completion of event and payable at scheduled settlement with Finance Department.

- 5) **Liquidated Damages:** If Licensee cancels any event or significantly reduces the space reservation covered by this agreement, Licensee agrees to pay to Operator the following amounts as liquidated damages and not as a penalty, and the parties agree that such amounts constitute reasonable provision for liquidated damages:
- A. If Licensee cancels more than one year before the first scheduled day of the event, the initial deposit shall be payable to Operator as liquidated damages.
  - B. If Licensee cancels more than 6 months but less than one year before the first scheduled day of the event, the initial deposit plus half of the remaining balance of the base rental rate shall be payable to Operator as liquidated damages.
  - C. If Licensee cancels less than 6 months before the first scheduled day of the event, or enters into any default as described in Paragraph 16, the entire base rental rate shall be payable to Operator as liquidated damages.

6) **Notices:** For purposes of notice or demand, the respective parties shall be served by certified or registered mail, return receipt requested, at the above addresses.

7) **Box Office:** Licensee agrees that it will indemnify, hold and save the City of Knoxville and Operator, their officers, agents, contractors and employees whole and harmless and at Operator's option defend same, from and against all claims, demands, actions, damages, loss, cost, liabilities, expenses and judgments of any nature recovered from or asserted against Operator on account of box office operations and control of which is exclusively performed by the Licensee.

a) **Ticket Prices:** Licensee agrees that all tickets will be sold at the advertised prices.

b) **Complimentary Tickets:** Operator will retain a minimum of 25 (twenty-five) tickets for each event day or event covered by this Agreement. Such complimentary tickets shall be of Operator's choice and will be retained by Operator at its office at least ten (10) working days before the first day of the Event.

Operator

c) Licensee covenants and agrees to pay the Operator on demand all sums due Operator for any service, equipment, accommodations or materials furnished or loaned by Operator as requested by the Licensee.

Licensee

d) **Licensee covenants and agrees to provide Operator daily ticket reports to include the number of: tickets sold, complimentary tickets collected, attendance for volunteers, staff, exhibitors, etc., for each event day covered by this Agreement. A designee of the Operator will collect this report at the end of each event day.**

e) Operator, at its discretion, will reserve the right to determine location of ticket Booth/s in the facilities.

8) **Exculpation and Indemnification Clause:** Licensee agrees that it will indemnify, hold and save the City of Knoxville ("City"), and Operator, their officers, agents, contractors and employees whole and harmless and at Operator's option defend same, from and against all claims, demands, actions, damages, loss, cost, liabilities, expenses and judgments of any nature recovered from or asserted against Operator, or the City on account of injury or damage to person or property to the extent that any such damage or injury may be incident to, arise out of, or be caused, either proximately or remotely, wholly or in part, by an act, omission, negligence or misconduct on the part of Licensee or any of its agents, servants, employees, contractors, patrons, guests, sublicensees or invitees or of any other person entering upon the Premises licensed hereunder with the express or implied invitation or permission of Licensee, or when any such injury or damage is the result, proximate or remote, of the violation by Licensee or any of its agents, servants, employees, contractors, patrons, guests, Licensees or invitees of any law, ordinance or governmental order of any kind, or when any such injury or damage may in any other way arise from or out of the occupancy or use by Licensee, its agents, servants, employees, contractors, patrons, guests, Licensees or invitees of the Premises licensed hereunder. Licensee covenants and agrees that in case Operator, or City or any of their officers, agents, contractors or employees shall be made parties to any litigation against Licensee or to any litigation commenced by any party other than Licensee relating to this Agreement or to the Premises

licensed hereunder, then Licensee shall pay all costs and expenses, including reasonable attorney's fees and court costs, incurred by or imposed upon Operator or City or their officers, agents, contractors or employees by virtue of any such litigation. These terms of indemnification shall be effective unless such damage or injury results from the sole negligence, gross negligence or willful misconduct of Operator.

Licensee agrees that neither the City nor any of their officers, agents, contractors or employees shall have any liability to Licensee arising from any breach of this agreement or from or out of the occupancy or use by Licensee, its agents, servants, employees, contractors, patrons, guests, Licensees or invitees of the Premises licensed hereunder. Licensee waives any such claims against the City and their officers, agents, contractors and employees, and agrees that Licensee's sole recourse on any such claim shall be against Operator.

Without Limiting any of the foregoing, Licensee shall be solely liable for any and all losses, liabilities, claims, damages and expenses (including reasonable cost of investigation and attorney's fees) (collectively, the "Losses") occurring on the Premises or elsewhere at the Convention Center (whether within or without the Premises) caused to Licensee, the City, and/or persons and/or property in, on, or near the Premises before, during or after an Event, by any and all rigging from or to the physical structure of the Premises or the Convention Center or any fixture thereto, set-up, alterations, and/or improvements at or to the Premises or the Convention Center necessitated by and/or performed with respect to the Event. Licensee shall indemnify, defend, and hold harmless Operator and the City from any and all Losses arising out of or in connection with rigging from or to the physical structure of the Premises of the Convention Center or any fixture thereto, set-up, alterations, and/or improvements at or to the Premises or the Convention Center necessitate by and/or performed with respect to the Event.

- 9) **Laws, Ordinances and Regulations:** Licensee shall comply with all applicable laws, statutes and ordinances and all rules, regulations and requirements of all federal, state and local governmental authorities. Licensee shall not admit to the premises a larger number of persons than the total number designated by the General Manager of the Convention Center (hereinafter called the "General Manager") as the seating capacity or the number that can safely and freely move about.
- 10) **Responsibility for Damage:** If the licensed premises or any portion thereof, or any structure attached thereto, or any equipment, fixture, or other item contained shall be destroyed, damaged, marred, altered, or physically changed during the term in any manner whatsoever, then Licensee shall be responsible.

Licensee is to properly care for all equipment entrusted to Licensee during the term of this Agreement and all such equipment so entrusted which is lost, stolen, or disappears shall be the sole responsibility of Licensee and Licensee shall pay the full replacement cost thereof to Operator.

SMG may, at its election, accept delivery of property addressed to Licensee only as a service to Licensee, and Licensee will indemnify, defend, and hold harmless SMG for any loss or damage to such property in the receipt, handling, care, and custody of such property

at any time. SMG assumes no responsibility whatsoever for any property placed in the Facility.

- 11) Articles Left on Premises:** Any article remaining on the licensed premises left, lost or checked in the building by persons attending any performance, exhibition or entertainment shall be collectible solely by Operator.
- 12) Signs:** Licensee, its agents, exhibitors, et al., shall only post signs as permitted by General Manager. Licensee must obtain all appropriate permits and licenses for off-site signage.
- 13) Sale of Concessions:** Operator reserves, and at all times shall have the sole right to sell or give away librettos, flowers, food, refreshments, beverages, cigars, cigarettes, candies, sundries, novelties, souvenirs, programs and periodicals and to rent and sell opera glasses, umbrellas and other articles, to conduct check rooms, to control event programs and to supervise the contents thereof, to take photographs, to control or supervise radio, movie and/or television broadcasting or recording and transcription rights and equipment, and other privileges, and Licensee shall not engage in or undertake the sale of any of the aforesaid articles or privileges, without the express written consent of Operator.

**Operator**

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**Licensee**

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All federal, state, and local laws and/or regulations related to copyright, trademarks, etc., must be complied with by the Licensee and all exhibitors selling such items on the premises. Further, the Licensee agrees to save and completely hold harmless the City of Knoxville, and SMG; and to pay all costs related to any violation of the above.

- 14) Use of Machinery:** Licensee shall not, without the written consent of Operator, put up or operate any engine or motor or machinery on the premises or use oils, burning fluids, camphene, kerosene, naphtha or gasoline for either mechanical or other purposes or any other agent than gas or electricity for illuminating the demised premises. All decorative materials must be flameproof before the same will be allowed in the buildings and should have written verification of such flameproof treatment or qualities.
- 15) Assignment and Subletting:** Licensee shall have no right to assign or sublet this agreement without the prior written consent of Operator. The criteria for approving such an assignment or subletting includes: (a) net worth; (b) industry reputation of assignee or sublicensee; (c) experience; (d) business reputation; and (e) any and all other criteria that Operator shall find relevant.

The terms assignment or subletting as used in this agreement, shall include any and all transfers of Licensee's interest in this agreement whether voluntary or involuntary, including any lien upon Licensee's interest, or any transfer by Licensee, any assignee or sublicensee, heir, personal representative, or successor of Licensee, or by any receiver or trustee with jurisdiction over Licensee, a subsequent assignee or sublicensee or its property.

- 16) Default and Operator's Remedies:** Default shall be defined as the untimely performance of any provision of this agreement or the Event Guide which is incorporated by reference into this agreement. Upon a default by Licensee, Operator may terminate this agreement and in addition exercise any and all of the remedies herein enumerated or permitted by law or in equity. Default shall include, but is not limited to:

- (a) Failure to pay any rent payment or any portion thereof within ten (10) days of due date;
- (b) Abandonment of the licensed premises, whether partial or total;
- (c) Failure to carry insurance as outlined in Paragraph #17;
- (d) Any and all checks given by the Licensee returned for insufficient funds or N.S.F.; and

In addition to its other remedies, Operator may terminate this agreement if a dispute occurs between Licensee and its employees or between Licensee and any union or group of employees by reason of the union affiliation, or lack thereof, by persons employed by Licensee or by anyone with whom Licensee contracts. Such dispute shall be considered a default hereunder and subject to all remedies for default set forth herein.

- (e) Any other event which the Operator deems to be a material default; furthermore:

Operator may exercise any or all remedies enumerated or permitted by law or in equity. Operator may hold a landlord's lien on any and all personalty when Licensee is in default and Licensee expressly gives Operator permission to remove and store, at Licensee's expense, any personalty abandoned on the demised premises.

The Licensee shall reimburse Operator for all of Operator's legal costs, charges and expenses, including but not limited to the fees of counsel, costs of appeal, all litigation expenses, fees of staff and leasing agents retained by the Operator, and all fees and expenses of any nature whatsoever incurred in enforcing the Licensee's obligations hereunder or incurred by the Operator in any litigation, negotiation or transaction in which the Licensee causes the Operator to become involved or concerned.

Operator may resort to any one or more of such remedies or rights, and adoption of one or more such remedies or rights shall not prevent the enforcement of other remedies or rights concurrently or thereafter. In addition to Operator's other remedies, if Licensee fails to comply with any provisions of this agreement, Operator may, in its sole discretion, delay or withhold payment or settlement of all accounts and funds collected or received by Operator for the benefit of Licensee hereunder and may retain such funds to offset any damages suffered by Operator, the City or their officers, agents, contractors or employees.

- 17) Insurance:** As additional consideration over and above the rental payments made by Licensee herein, Licensee shall, at its own expense, comply with all of the following insurance requirements of the Operator. It is agreed by the parties that the Licensee shall not occupy the premises until proof of the following insurance coverage has been furnished to the Operator:

- (a) Commercial general liability insurance, on an occurrence form, in the amount of One Million (\$1,000,000.00) Dollars per occurrence for bodily injury, death, property damage, and personal injury. The policy must include coverage for premises

operations, blanket contractual liability (to cover indemnification section), products, completed operations and independent contractors. These policies must name the City of Knoxville and SMG as additional insured.

- (b) Automobile liability insurance in the amount of One Million (\$1,000,000.00) Dollars per occurrence to provide coverage for any owned and non-owned vehicles used by the Licensee on the Facility premises, including loading and unloading hazards. This must name the City of Knoxville and SMG as additional insured.
- (c) Workers' compensation and employer's liability coverage as required by Tennessee Statute. Currently, the State of Tennessee requires that employers provide worker's compensation coverage for all employees. The Statute requires coverage from the employer if they have three or more employees. The Operator requires evidence of this coverage.
- (d) The City of Knoxville and SMG must be included as additional insured, and all certificates must contain the following statement:

The City of Knoxville, SMG, their officers, agents & employees are included as additional insureds. It is further agreed that this insurance is primary to all other similar coverage carried by the City of Knoxville, and/or SMG, and the Lessee and their insurance shall have no right of recovery or subrogation against the Operator.
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- (e) All policies must be issued by companies authorized to do business in the State of Tennessee and assigned a rating of A+ or better, per Best's Key Rating Guide, latest edition.
- (f) SMG must receive thirty (30) days written notice prior to any cancellation, non-renewal or material change to the required insurance policies. This written notice must be sent to the SMG, P.O. Box 2543, Knoxville, TN 37901-2543.
- (g) An original certificate of the required insurance policies must be provided to Operator no later than 60 days prior to the first move-in/event date on this Agreement. If a certificate of insurance is not submitted with the required insurance, Operator will purchase insurance on behalf of the Licensee. All costs for insurance will be the responsibility of the Licensee.
- (h) Alternate coverage to satisfy these requirements is subject to prior approval of SMG. Additional insurance coverage, as determined by SMG, may be required for this agreement.

**18) Relocation of Licensee:** Operator reserves the right after the execution or during the term of this agreement, at the Licensee's cost and expense, to remove the Licensee from the premises and relocate Licensee in some other space of Operator's choosing of approximately the same dimensions and size. If Licensee is removed and relocated in other space within the Building which is then leasing at a rent less than the rent of the premises at that time, Licensee's rent shall be reduced to the rent then being charged for the space in which

Licensee has been relocated. Licensee, by the execution of this agreement, acknowledges the foregoing right of Operator, and no rights herein granted to Licensee, including but not limited to the right of peaceful and quiet enjoyment, shall be deemed or construed to have been breached or interfered with by reason of Operator's exercise of the rights herein reserved in this Paragraph.

- 19) **Administrative Charges:** In the event any check, bank draft or negotiable instrument given for any money payment hereunder shall be dishonored at any time and from time to time, for any reason whatsoever not attributable to Operator, Operator shall be entitled, in addition to any other remedy that may be available, to make an administrative charge of Forty (\$40.00) Dollars for each such check.
- 20) **Delay of Possession:** In the event Operator is unable to tender possession of the licensed premises because of the unauthorized holding over of any tenant or tenants or due to delays in construction or any other reason, as long as such inability continues, a per diem abatement of the rent shall be allowed to Licensee but nothing shall operate to extend the term of this agreement beyond the original expiration date and said abatement of rent shall be the total limit of liability of Operator to Licensee for any losses or damages incurred by Licensee due or related to such delay in obtaining possession of the licensed premises. The computation of the per diem abatement in the rent is deemed to be the liquidated and agreed damages for any delay in possession.
- 21) **Portions of Operator's Building Not Demised:** Licensee understands and agrees that during the terms of this agreement, Operator may use or cause to be used for conventions, expositions, attractions, or for any legal purpose whatsoever, any portion of Operator's building not demised to Licensee. Operator shall not be responsible for any actions of any other user of the building.
- 22) **Floor Plan:**
- (i) At least sixty (60) days prior to the first Event, Licensee shall provide to SMG, for SMG's and/or the Knoxville Fire Marshal's approval, five (5) copies of a full and complete floor plan for the Event. Based upon a review by SMG and/or such Fire Marshal of the foregoing plan, SMG may request Licensee, by written notice within ten (10) days after receiving the materials, to make such changes, deletions, and/or additions as SMG may, in its reasonable discretion, deem necessary or desirable. Failure by Licensee to make any such reasonable changes, deletions, or additions within seven (7) days after receipt of written notice thereof shall constitute a breach of this Agreement.
- (ii) In addition to the floor plan delivered under clause (i) above, at least sixty (60) days prior to the first Event, Licensee shall provide to SMG, for SMG's review (and/or the review of any consultant or representative engaged by SMG), five (5) copies of a full and complete description of all set-up (including, without limitation, any staging, lighting, video boards, and/or rigging from or to the physical structure of the Facility or any fixture thereto required for the Event), electrical, communications systems, and plumbing work anticipated to be needed for the Event. Based upon a review by SMG and/or such consultants or representatives of the foregoing plan, SMG may request Licensee, by written notice within ten (10) days after receiving the materials, to make such changes, deletions, and/or additions as SMG may, in its reasonable discretion, deem necessary or desirable. Failure by

Licensee to make any such reasonable changes, deletions, or additions within seven (7) days after receipt of written notice thereof shall constitute a breach of this Agreement.

- 23) **SMG Food Service:** Licensee will advise SMG of all of its food, beverage and catering requirements, if any, as soon following execution of this Agreement as is practicable, and shall not enter into any contract, agreement, promise or obligation, whether written or oral, expressed or implied, with any other party for the purpose of providing the aforesaid services. If exhibitors intend to give away food or beverages, these items must be purchased through SMG.
- 24) **Audits:** Licensee shall make available to Operator, upon request, all records and books related to this Agreement at such time and place as shall be designated by Operator for examination thereof for the purpose of an audit to be performed by an auditor designated by Operator. Licensee shall inform all services retained by it to provide services in connection with Licensee's agreement of Operator's premises pursuant to this Agreement, that they must also agree to the aforesaid provision relating to audit upon request of Operator. If any such audit demonstrates that the revenue or expenses reflected in any statement given to Operator on behalf of Licensee are understated (in the case of revenues) or overstated (in the case of expenses) by more than five percent (5%), Licensee shall pay Operator the reasonable cost of such audit. In any event, Licensee shall promptly pay Operator all sums due Operator as a result of such overstatement or understatement.
- 25) **Operator's Employees and Agents:** Operator will not furnish any technicians, stagehands, ticket sellers, ticket takers, ushers, security guards, or any other auxiliary personnel unless otherwise expressly provided for herein under Paragraph #3.
- 26) **Emergency Powers to Vacate Premises:** The General Manager may extinguish all lights in the licensed premises, cease operation of the air conditioning system, terminate service of any other utilities upon the premises, order evacuation of all or any portion of the licensed premises, or cause to be removed therefrom any person or group of persons, any materials, equipment or other items if, in his judgment, circumstances of a dangerous or unusual nature have occurred, or he reasonably believes are about to occur, and such action is necessary to secure the safety and welfare of persons and/or property, and Licensee waives any right and/or claim for damages against Operator, its agents or servants, in such eventuality.
- 27) **Supply of Keys to General Manager:** The General Manager or his representative shall have available to him at all times, total and complete access to all portions of the licensed premises. Licensee shall supply to the General Manager, or his representative, a key or keys to any and all parts of the premises which Licensee desires to secure under lock, such keys and locks to be provided for and installed and removed at the sole expense of Licensee, subject to immediate removal upon termination of this Agreement, or otherwise at the discretion of the General Manager. In the event the General Manager determines it to be necessary to remove any locks which have been installed by Licensee, the General Manager may order such removal, the cost of which shall be borne by Licensee.
- 28) **Representations and Warranties:** Each party hereby represents and warrants to the other party that it has the full power and authority to enter into this agreement and perform each

of its obligations hereunder; it is legally authorized and has obtained all necessary regulatory approvals for the execution, delivery and performance of this agreement; and no litigation or pending or threatened claims of litigation exist which do or might adversely affect its liability to fully perform its obligations hereunder or the rights granted to it by the other party under this agreement.

**29) Other Covenants by Licensee:** Licensee hereby covenants as follows:

- (a) Licensee shall not cause or permit any Hazardous Material to be used, stored or generated on, or transported to and from the Premises. "Hazardous Material" shall mean, without limitation, those substances included within the definitions of "hazardous substances", "hazardous materials", "toxic substances", or "solid waste" in any applicable state or federal environmental law.
- (b) No portion of any passageway or exit shall be blocked or obstructed in any manner whatsoever, and no exit door or any exit shall be locked, blocked or bolted while the Premises are in use. All designated exit ways shall be maintained in such a manner as to be visible at all times.
- (c) If the payments due from Licensee hereunder include a percentage of revenue generated from an event, then no collections, whether for charity or otherwise, shall be made, attempted or announced at the Premises without a prior written request and the prior written consent of Operator. In the event that donations or collections are permitted by Operator in lieu of an admission ticket, then all such monies received from such collections or donations shall be considered ticket revenues for the purpose of determining the amounts due and payable to Operator hereunder.
- (d) Licensee shall not encumber, hypothecate or otherwise use as security its interests in this Agreement, including but not limited to any revenues generated from Licensee's use of the Premises, for any purpose whatsoever without the express written consent of Operator.
- (e) With respect to any event at the Premises, Licensee shall comply fully with any and all local, state and federal laws, regulations, rules, constitutional provisions, common laws and rights of others applicable to the reproduction, display or performance of proprietary or copyrighted materials and works of third parties (the "**Works**") and to the protection of the intellectual property rights associated with such Works. The fees payable by Licensee under this Agreement do not include royalty, copyright or other payments which may be necessary to lawfully perform, publish, display or reproduce any such Works. Licensee specifically agrees, undertakes, and assumes the responsibility to make any and all reports to such agencies and/or parties, including by way of example only (and not by way of limitation) ASCAP, BMI, SAG, SESAC, Copyright Clearance Center and other similar agencies. Licensee agrees hereby to obtain and maintain evidence of such reports and any necessary payments, including evidence of compliance with the requirements of this paragraph. Licensee further agrees hereby to provide to Operator any such compliance evidence as may be requested by Operator in advance of or after any such Event. Licensee agrees that the obtaining and maintaining of such evidence by Licensee is a material condition of

this Agreement. Licensee agrees to indemnify, defend, protect and hold harmless Operator and all other Indemnitees (as that term is defined in this Agreement) of and from all and all manner of losses arising in any way from the use by Licensee of proprietary intellectual property of third parties (whether such claims are actual or threatened) under the copyright or other laws of the United States. The foregoing indemnity shall apply regardless of the means of publication, display, or performance by Licensee, and shall include specifically and without limitation the use of recordings, audio broadcasts, video broadcasts, Works on other magnetic media, sounds or images transmitted via the worldwide web, chat rooms, web casts, or on-line service providers, satellite or cable, and all other publications, display or performance means whatsoever, whether now known or developed after the date of this Agreement.

**30) General Manager's Discretion:** Any matter not expressly provided for herein shall be within the reasonable discretion of the General Manager.

**31) Miscellaneous:**

(a) This agreement shall be deemed to be made, governed by and construed in accordance with the laws of the State of Tennessee, without giving effect to the conflict of law principles thereof. All legal proceedings relating in any way to this agreement or to Licensee's use and occupancy of the Premises shall be brought in the state or federal courts located in Knoxville, Tennessee. Licensee hereby consents to the jurisdiction and venue of such courts and waives any objections it might have to such jurisdiction and venue.

(b) If any section, subsection, clause or provision of this agreement is held invalid, the remainder shall not be affected by such invalidity.

(c) This agreement may only be altered, changed or amended by an instrument in writing signed by both parties hereto.

(d) No waiver of any covenant or condition of this agreement by either party shall be deemed to imply or constitute a further waiver of the same covenant or condition or any other covenant or condition of this agreement.

(e) This agreement contains and embodies the entire agreement of the parties hereto and no representations, inducements or agreements, oral or otherwise, between the parties not contained and embodied herein shall be of any force and effect.

**Operator** (f) In any conflict between the agreement and other written provisions, the agreement shall prevail.

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**Licensee** (g) Operating Rules and Regulations and Booking Policy as contained in "Event Guide" are hereby incorporated into this agreement by reference unless otherwise amended by separate addendum.

- (h) The Licensee acknowledges and understands that this agreement in no way affords any rights and does not authorize any signage to be placed outside the boundaries of the Convention Center property.
- (i) Time is of the essence of this agreement.
- (j) This agreement shall be binding upon, and shall insure to the benefit of, the successors and assigns of Operator, and to such successors and assigns of Licensee as are permitted to succeed to Licensee's rights subject to the terms of this agreement.
- (k) Operator and licensee shall each be and remain an independent agreementor with respect to all rights and obligations arising under this agreement. Nothing in this agreement shall make, or be construed to make, Operator or Licensee a partner of one another, nor shall this agreement be construed to create a partnership or joint venture between any of the parties hereto or referred to herein.
- (l) Whenever the context shall so require, the singular shall include the plural, the plural shall include the singular and words of one gender shall include words of the other gender.
- (m) Operator shall have the right, in its sole discretion, to use or permit the use of any portion of the Convention Center, other than the Premises licensed hereunder, to any person, firm or other entity regardless of the nature of the use of such other space.
- (n) If the Convention Center is damaged from any cause whatsoever or if any other casualty or unforeseeable cause beyond the control of operator, including, without limitation, acts of God, fires, floods, epidemics, quarantine restrictions, strikes, failure of public utilities, or unusually severe weather, prevents occupancy and use of the Premises by Licensee, Operator is hereby released by Licensee from any damages caused thereby.
- (o) It is expressly understood and agreed by the parties hereto that no officer, director, employee, agent, representative, or sales person of either party hereto, or of the city or any third party, has the authority to make, has made, or will be deemed to have made, any representation, warranty, covenant, agreement, guarantee, or promise with respect to the financial success or performance, and/or other success, of the event. Licensee hereby acknowledges and agrees that any assessment of the financial success or performance, and/or other success, of the event is solely that of Licensee's own determination and judgment.

**32) Notices:** Any notice, consent, or other communication given pursuant to this agreement shall be in writing and shall be effective either (i) when delivered personally to the party for whom intended, (ii) upon delivery by an overnight courier service that is generally recognized as reliable, and the written records maintained by the courier shall be prima facie evidence of delivery, or (iii) on delivery (or attempted delivery) by certified or registered mail, return receipt requested, postage prepaid, as of the date shown by the return receipt; and any case

addressed to such party as set forth below or as a party may designate by written notice given to the other party in accordance herewith.

If to Operator:  
SMG  
Knoxville Convention/Exhibition Center  
P.O. Box 2543  
Knoxville, Tennessee 37901-2543  
ATTN: Mary S. Bogert, General Manager

If to Licensee:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
ATTN: \_\_\_\_\_

Licensee: **Company**

Attest:

By: \_\_\_\_\_  
**ContactNameTitle**

\_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_

Operator: **SMG**

Attest:

By: \_\_\_\_\_  
**Mary S. Bogert, General Manager**

\_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_

Original License; issued on **Date**  
**XX:bc**