

License
To Use
The Austin Convention Center Department Facilities

Account
Address - Account
City - Account, *State - Account* *Postal Code - Account*
Phone - Account

Austin Convention Center
500 East Cesar Chavez Street
Austin, Texas 78701
512-404-4000

This license agreement including any addenda or exhibits hereto (collectively, the "Agreement"), is made and entered into this date of **March 21, 2019**, by and between the City of Austin, a municipal corporation of the State of Texas ("City"), acting by and through the Director ("Director") of the Austin Convention Center Department ("Department"), or designee, and *Account* ("Client").

The Department operates and controls certain meeting and convention facilities owned by the City ("Department Facilities"), including but not limited to, the Austin Convention Center and Palmer Events Center. Client seeks to use and occupy specified areas of the Department Facilities under the terms and conditions set forth herein. Therefore, for good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

1. **LICENSED PREMISES.** Subject to the terms and conditions of this Agreement, the City grants Client a license to use and occupy the following described Department Facilities ("Premises") on the indicated dates ("Event Period") for the rental rates stated below for the following express purposes and no other purpose regardless of whatever name Client may designate the Event: *Description (Post as)* ("Event"). Changes to Event name must be submitted to Department in writing. Changes to the purpose and scope of the Event must be submitted to Department in writing and approved by Department. Client agrees that it is accepting the Premises in their existing condition, as is with all faults.

A contract day commences at 6am and ends at 11:59pm, unless otherwise expressly provided in this Agreement. The Department will assess overtime charges for use of the Premises during the period between 12:00am to 5:59am, or hours outside of the contract day, if applicable.

Location: *Location (Category) - Event*

[BOOKHEADERS]
[BOOKHEADERS_TOTALS]

[CONTRACTCLAUSES]

2. **PAYMENT.** Client shall pay the City for the use of the Premises, the sum of (*GRAND TOTAL*). Payment shall be as follows:

[BOOKHEADERS_DEPOSIT]

Payment shall be made to the order of the City of Austin – Austin Convention Center Department, PO Box 1088, Austin, Texas 78767-8838. *To avoid release of the date(s) and room(s), the signed agreement and the specified deposit must be received by the Department no later than <date>.*

In addition to the rental stated above, Client shall pay for all additional services or equipment requested from or provided by or through the Department at the rates in effect as of *FMT_EV200_EVT_IN_DATE*. Additional services or equipment may include, but are not limited to, equipment, utility service, telephone service, security service, audio visual service, technical service, parking, catering service and novelty commission.

In the event of cancellation by Client, the amounts described above actually paid by Client are non-refundable and non-transferable and shall be retained by Department as liquidated damages. In the event of cancellation by Department for reasons other than the default of Client, the amounts actually received by Department, which are described above shall be refunded to Client within thirty (30) days of such cancellation as Client's exclusive remedy for any claims of Client arising out of such cancellation.

In the event of revisions by Client that result in a reduction of space, no fees will be refunded or credited if the revision occurs within six (6) months of the first contract day.

Following conclusion of the Event, the Department shall present to Client an itemized invoice reflecting charges for rental, services or equipment used by Client and damages or non-routine cleanup costs incurred during the Event Period. The invoice shall reflect any credits for compensation previously received by the Department. The balance, if any, owed the Department is due and payable within thirty (30) days upon receipt of invoice, unless otherwise agreed to by the Director in writing.

3. **SCOPE OF FACILITIES LICENSED.** The use of the Premises includes common use public corridors and restrooms necessary to accommodate patrons, together with such regularly provided heat, air conditioning, and light, as may be reasonably required for use of the Premises as determined by the Director. Space may be reassigned with the prior consent of the Director. While the Client may have access to the service yard (the area for loading and unloading), Client understands and agrees the Department maintains sole control of the service yard at all times and may direct all third parties as it deems necessary.
4. **MOVE IN AND MOVE OUT.** The Client may move in no sooner than the hour of commencement of the Event Period. All Event equipment, exhibits, fixtures, materials, displays, and other property shall be brought into or out of the Department Facilities only through entrances designated by the Director. The Client shall remove from the Premises on or before the expiration of the Event Period all property, goods and effects belonging to Client or caused by the Client to be brought upon the Premises. Further, at the end of the Event Period, Client shall peaceably quit and surrender the Premises and return to the Department all equipment and facilities provided by the Department. Client shall return the Premises, equipment and facilities to the Department in the same good condition and repair as before Client's use thereof, except for reasonable wear and tear from ordinary use.
5. **PROPERTY LEFT ON PREMISES AND LOST ARTICLES.**
 - a. **Property Left on Premises.** If equipment, exhibits, fixtures, materials, displays or other personal property are not removed by the end of the Event Period, the Director may store, or cause to be stored, any such property, for which Client shall pay a reasonable fee to cover any and all expenses incurred by the Department. If Client does not take possession of such equipment, exhibits, fixtures, materials, displays or other personal property within a reasonable period of time, and pay the applicable storage fees, the Director may sell the same in accordance with applicable law, and hold the proceeds thereof for the rightful owner less any reasonable expenses incurred by Department. The City shall not be liable for any loss of or damage to property left on premises. Charges for the storage disposition of said property shall be billed by the Department and paid by Client upon receipt of invoice.
 - b. **Lost Articles.** The Client is responsible for the collection and custody of articles left in and on the Premises, including common areas, by persons attending the Client's Event.
6. **DAMAGED PROPERTY AND CLEANUP.** The Department shall provide routine cleaning of the Premises at no additional cost to the Client. Department cleaning does not include exhibit booths or exhibits aisles before, during or after Client's event. As used herein, non-routine cleaning is any cleaning of walls, floors, or other surfaces that cannot be effectively accomplished by broom sweeping or the use of a mop or wiping cloth with a typical commercial cleanser. Client shall be responsible for expenses associated with areas of the Premises (inside or outside) requiring non-routine cleanup. Client is also responsible for the cost to repair any and all damages to the Premises or other Department Facilities, other than normal wear and tear, caused by Client or Client's agents, employees or subcontractors, subordinates, exhibitors and/or convention attendees or guests. Client shall be barred from entering into any subsequent agreement for use of the Department Facilities unless and until the Client has paid the City in full for such damage.
7. **EQUIPMENT, SERVICES, RIGGING, CATERING AND CONCESSIONS.**
 - a. **General.** At least sixty (60) days prior to the Event, Client shall file with the Department a preliminary outline of events or agenda. At least thirty (30) days prior to the Event, Client shall submit a full and detailed outline of all space to be utilized, operation set-up, equipment and services required, and such other information which may be required by the Department to adequately execute the Event. A full and detailed outline includes, but is not limited to, Event schedule or timeline; Exhibition timeline and diagram (move in, show, move out); approved floor plans (exhibits, meetings, general session); utility and technical requirements; event security; production and/or audio visual schedule; and general service contractor production schedule. The proposed floor plan shall include a minimum thirty foot by thirty foot (30' x 30') space per exhibit hall for concession activity. The Department may decline use of the concession space after review of the proposed floor plan and will advise Client if the space is not needed or a reduced amount of space is acceptable.
 - b. **Utility and Technical Services.** The Department reserves for itself or its assigned contractors the sole right to provide the following services to Client and/or Client's exhibitors: electric, telephone, water, fiber optics, video distribution, computer networking, compressed air, and natural gas. Director agrees that Service Orders for utilities requested by Client's exhibitors for the Event shall be made directly with the exhibitors, and that such exhibitors must pay for utilities directly to the Department.
 - c. **Rigging.** The Department reserves for itself, or its assigned contractor, the sole right to provide rigging services to Client.
 - d. **Sale or Rent of Concession Items.** The Department reserves for itself, or its designated concessionaires or contractors, the sole right to provide the following goods and services which may not be specifically related to the Client or Event, together with the necessary floor space to do so: (1) sale or dispensing of periodicals, books, magazines, newspapers,

photographs, soft drinks, alcoholic beverages, flowers, candies, food, novelties, tee-shirts or any related merchandise commonly sold in the Department Facilities, (2) rental or sale of similar articles.

- e. **Giving Away of Concession Items.** The Client and Client's exhibitors may give away sample size food, non-alcoholic beverages, and Event-related novelty items, for which Client assumes full responsibility, including without limitation, compliance with applicable law, including health requirements. Exhibitors may give away sample size items for materials or products produced directly by the exhibitor. At least fourteen (14) days prior to the Event, Client must provide the Department with a listing of all booths providing food and beverage samples and the size of the samples. The Department or its assigned contractors may request written proof of compliance with applicable laws and health regulations prior to or during the Event.
- f. **Catering or Food and Beverage Items.** The Department reserves for itself, or its designated food and beverage management/concession contractor, the sole and exclusive right to provide the following services; food and beverage items for all events, including, but not limited to, breakfasts: continental breakfasts, breakfast buffets, served breakfasts; refreshment breaks; luncheons: luncheon buffets, served luncheons; receptions; dinners: seated served dinners, seated dinner buffets and theme parties. The term "food and beverage" items includes all food items, non-alcoholic beverages and alcoholic beverages, except sample-size food and non-alcoholic beverage items referred to in Section 7.e. above.
- g. **Storage.** Department shall be under no obligation whatsoever to receive, store, handle freight, mail packages or personal property of exhibitors or Client. But, with prior approval from the Director, the Department may elect to receive, handle, or store property of Client or its exhibitors shipped or otherwise delivered to Department Facilities solely as an accommodation of Client when feasible. In no event shall, the City, the Director, the Department, or its agents, officers or employees, be liable for loss, transport cost, other costs associated with delivery or damage to such property.
- h. **Wireless Communication Services.** The Department offers 802.11 a/g/n/ac wireless internet services to clients, attendees, exhibitors and subcontractors in the Department Facilities. The Department offers limited, complimentary Wi-Fi that is intended for general web browsing for attendees. Any business needs such as presentations or demonstrations that rely on Internet connectivity are encouraged to purchase a wired connection. Client shall comply, and shall use its best efforts to cause its Event exhibitors, patrons and attendees to comply, with all applicable laws, rules and regulations concerning the use of wireless communications devices on the Premises, or the use of the wireless services provided by the Department. The Department discourages the use of any wireless communication devices or services that will cause interference with the Department or other clients using the Facilities. The Department will work with the Client to address any specific Wi-Fi concerns, and address any issues of "sharing the air space" in accordance with FCC regulations. The Department will not be responsible for degraded Wi-Fi service due to interference caused by other wireless communication devices or services. IN NO EVENT SHALL THE CITY BE LIABLE TO ANY PERSON FOR ANY CLAIMS OR DAMAGES ARISING OUT OF THE MALICIOUS, NEGLIGENT, OR INADVERTENT MISUSE OF A WIRELESS COMMUNICATIONS DEVICE OR DEPARTMENT-PROVIDED WIRELESS SERVICES BY THE CLIENT, ANY EVENT PATRON, EXHIBITOR, ATTENDEE OR THIRD PARTY.
- i. **Parking Facilities.** The Department operates three (3) parking garages for the convenience of persons attending events at the Department Facilities as follows: the 2nd Street Garage and 5th Street Garage for the Convention Center, and the Palmer Events Center Parking Garage at the Palmer Events Center (collectively the "Parking Facilities"). Persons parking in the Parking Facilities pay a fee established by the City. Unless otherwise expressly provided in this Agreement, nothing herein shall entitle Client, or its exhibitors or Event attendees, to any parking privileges other than those available to the general public.
- j. **Personnel Services.** The Department agrees to furnish, to the extent feasible as determined by the Director in his or her discretion, as an additional reimbursable item, all necessary personnel required for Client's reasonable use of the Premises for the Event as provided in this Agreement, including but not limited to Event Staff and other general labor.
- k. **Safety and Security.** The Department reserves for itself, or through its designated contractors or concessionaires, the exclusive right to provide all attendants, ushers, badge checkers, security personnel, safety personnel, emergency medical technicians, and certified Texas peace officers at the Client's expense. No outside staffing of any personnel listed here is allowed unless approved by the Director. The Director in his or her discretion may also assign minimum staffing requirements for these services as they relate to the Event in this Agreement. In support of the Security and Safety Division, the Department operates a 24 hour security surveillance system and maintains the right to monitor and record any and all areas of the premises during the Event Period.

8. **ADVERTISING AND RECORDINGS.**

- a. **Advertisements.** Only after obtaining the Department's written consent or upon execution of this Agreement may Client circulate or publish or cause to be circulated or published any advertisement, tickets, placard, or other written or printed matter in which the Department, Austin Convention Center or Palmer Events Center, or other Department Facilities are mentioned or referred to.

Only after obtaining the Department's written consent or upon execution of this Agreement may Client distribute or circulate, or permit to be circulated or distributed any advertising matter, programs or notices on the Premises or other Department Facilities or property. Client and its Exhibitors may distribute matter and programs incident to its convention and exhibits

during the Event period and within the leased space upon receipt of a fully executed contract. Client may not place or use any portable signs on the exterior of the Premises or on Department Facilities without the prior written consent of the Director.

- b. **Video or Audio Recordings.** The Client may make audio and/or video recording of the Event. CLIENT SHALL INDEMNIFY AND HOLD HARMLESS THE DEPARTMENT FROM ANY CLAIMS FOR FEES, ROYALTY PAYMENTS, OR OTHER COSTS ASSOCIATED WITH SUCH RECORDING WHICH MAY BE DUE AND OWED TO THIRD PARTIES.

9. **INSURANCE AND INDEMNIFICATION.**

a. **Insurance.** Client shall obtain and maintain throughout the Event the insurance coverages stated in this Section. At least sixty (60) days prior to the commencement of the Event, Client shall provide to Director an insurance certificate acceptable to the City reflecting such insurance policies. Client shall not cause or permit any insurance policy to lapse or be cancelled prior to or during the Event. Client shall pay all premiums, deductibles and self-insured retentions, if any, stated in the policies. The City, its officials, employees and agents shall be named as additional insureds on coverages (1) and (2) below.

- (1) Commercial general liability insurance with a minimum combined single limit of \$1,000,000 per occurrence and a minimum \$1,000,000 aggregate including products and completed operations and contractual liability coverage. Fire legal liability must be included with minimum limits of \$50,000.
- (2) Business automobile liability insurance with a minimum combined single limit of \$500,000 including coverage for all owned, non-owned and hired autos.

Only insurance written by a company with an AM Best rating of no less than a B+ VII and in good standing with the Texas State Board of Insurance shall be acceptable to the City.

b. **Indemnity.** CLIENT AGREES TO DEFEND, INDEMNIFY AND HOLD THE CITY, ITS OFFICERS, AGENTS, AND EMPLOYEES, HARMLESS AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, COST AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM FOR WHICH RECOVERY OF DAMAGES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, THAT MAY ARISE OUT OF OR BE OCCASIONED BY CLIENT'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS AGREEMENT, OR BY ANY OTHER NEGLIGENT OR STRICTLY LIABLE ACT OR OMISSION OF CLIENT, ITS OFFICERS, AGENTS, EMPLOYEES OR SUBCONTRACTORS, IN THE PERFORMANCE OF THIS CONTRACT; EXCEPT THAT THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OR FAULT OF THE CITY, ITS OFFICERS, AGENTS, EMPLOYEES OR SEPARATE CONTRACTORS. IN THE EVENT OF JOINT AND CONCURRING NEGLIGENCE OF THE CLIENT AND THE CITY, RESPONSIBILITY AND LIABILITY, IF ANY, SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAW OF THE STATE OF TEXAS, WITHOUT WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY, AND SHALL SURVIVE TERMINATION OR EXPIRATION OF THIS CONTRACT.

Maintenance of the insurance required under this Agreement shall not limit Client's obligations under this Article.

10. **ENTERTAINMENT STANDARDS.** Client warrants and covenants that any performance, exhibition or entertainment to be held at the Premises shall not be illegal or obscene, and agrees to immediately cease and desist from presenting or continuing to present any portion or portions of a performance, exhibition or entertainment considered obscene or illegal by the appropriate law enforcement authority.

11. **TERMINATION.**

An event of default shall be deemed to occur should any of the following events happen:

- a. Client uses the Premises for any unlawful use, or any purpose other than that expressed in Section 1. Licensed Premises;
- b. Client fails to pay any fee, deposit, or invoice at the time and place specified herein;
- c. Client fails to timely deliver insurance certificates to the Department or to obtain and maintain the insurance policies set forth in this Agreement;
- d. Client, or any exhibitor acting under Client, presents or sponsors any illegal or obscene performances, productions or exhibitions on the Premises during the term of this Agreement;

- e. Client, or its officials, employees or agents, willfully fails to obey the reasonable requests of the Director, or his/her designee concerning matters of the Department Facilities security, safety, or damage to the Department Facilities, personnel, or the public during the term of this Agreement;
- f. Client files a voluntary petition for relief under the Bankruptcy Code, an involuntary bankruptcy petition is filed against Client and is not dismissed within thirty (30) days, a court takes jurisdiction of Client and its assets pursuant to proceedings brought under the provision of any Federal or State reorganization act, or a receiver is appointed for Client's assets; or
- g. Client fails to comply with any other term or condition of this Agreement.

In the event of the occurrence of an event of default by Client, the Director shall notify Client or its designated agent in writing. In addition to all other rights or remedies available to the City under law or in equity (the City's remedies being cumulative), the Department may terminate this Agreement immediately upon notice to Client, without penalty or liability, and may retain all fees and deposits paid by Client prior to termination. Upon termination of this Agreement by the City, all rights and privileges hereby created and all interest of Client, and all parties claiming by, through, or under Client, to the Premises shall automatically terminate upon the effective date of such notice; and the City, its agents or representatives, may without further demand or notice, reenter and take possession of the Premises and remove all persons and property from Department Facilities with or without process of law, without being deemed guilty of any manner of trespass, and without prejudice to any remedies of the City for such Client default.

12. **MISCELLANEOUS.**

- a. **General Conditions.** No portions of the sidewalks, entries, floors, passages, vestibules, halls, elevators, escalators, fire safety equipment, ways or access to public utilities of the Department may be obstructed, or caused to be obstructed, by Client, or used or permitted to be used, for any purpose other than ingress and egress to and from the Premises. Without prior written consent of the Director, the doors, skylights, stairways or openings that reflect or admit light into any portion of the building, including hallways, corridors and passageways, air circulation vents and house lighting attachments shall not be obstructed by Client. The restroom facilities, water closets, and water apparatus shall not be used for any purpose other than that for which they were constructed, and no sweepings, rubbish, rags, papers or other substances may be deposited or attached therein. Attendance at any Event shall not exceed maximum occupancy as determined by the lawful authorities. Client shall pay for any damage resulting from Client's misuse of any portion, facility or equipment of the Premises or the Department Facilities upon receipt of invoice.

Client shall not do, or permit to be done, upon the Premises anything that will tend to injure, mar or in any manner deface the Premises, and will not drive or install, or permit to be driven, installed or attached, any nails, tape, hooks, tacks, staples or screws into any part of Department Facilities (including the parking lot(s)), except as approved by the Director. Client will not make, or allow to be made, any alterations of any kind to the Premises, Department Facilities or Department equipment. Client may post and/or exhibit directional signs or Convention program information that relates to the Event on easels at such locations approved by the Director. Client shall not post or exhibit or allow to be posted or exhibited any non-directional or non-convention program information signs, clings, advertisements, show bills, lithographs, posters, or cards of any description on any part of the Premises or Department Facility, except at locations provided for such purpose by Director. The Director must approve materials to be used in marking exhibit hall floors.

Client will not do, or permit to be done, anything in or upon any portion of the Premises or Department Facilities, or bring or keep anything therein or thereon, which will in any way conflict with the conditions of any City fire or casualty insurance policy, or in any way increase any rate of insurance upon the Department Facilities or on property kept there. Under no circumstances shall Client conduct or permit to be conducted, any activities on the Premises that create an unreasonable risk to public health or safety.

- b. **Taxes.** Client will pay all applicable taxes on tickets used in connection with the Event or any performance, exhibition or entertainment. Client is responsible for the collection and reporting of all taxes due to the State of Texas and/or the federal government for the sale of tickets or sale of other taxable items. CLIENT SHALL INDEMNIFY AND HOLD HARMLESS THE CITY, ITS OFFICIALS, EMPLOYEES AND AGENTS FROM AND AGAINST ANY AND ALL CLAIMS ARISING OUT OF THE COLLECTION AND/OR REPORTING OF TAXABLE SALES OCCURRING IN CONNECTION WITH THE EVENT.
- c. **Compliance with Laws, Rules and Regulations.** Client shall comply with all applicable Federal, State, City, and local laws, ordinances, rules and regulations concerning the use of the Premises or the conduct of the Event and will not do, nor suffer to be done, anything on the Premises in violation of any such laws, ordinances, rules or regulations. Client shall obtain and pay for all necessary permits and licenses. Client will immediately cease and desist from, and correct all violations of law or permit conditions upon request of the Director or a law enforcement officer to the satisfaction of the Director, or be subject to immediate termination of this Agreement, in addition to any criminal prosecution which may be brought by an appropriate law enforcement authority. The Department may adopt and enforce reasonable rules, regulations and standards, which Client agrees to observe and obey, with respect to the use of the Premises and the Department Facilities, together with all improvements, equipment and services of the Department, for the purpose of providing for safety, good order, good conduct, sanitation and preservation of the Department Facilities.

- d. **Right to Assurance.** Client may have multiple agreements with the City and the Client agrees it shall remain in compliance with all agreements with the City. Whenever one party to the Agreement in good faith has reason to question the other party's intent to perform, demand may be made to the other party for written assurance of the intent to perform. In the event that no assurance is given within the time specified after demand is made, the demanding party may treat this failure as an anticipatory repudiation of the Agreement.
- e. **Force Majeure/Occupancy Disruption.** Force Majeure shall mean acts and events not within the parties' control, and which the party has been unable by the exercise of due diligence to avoid or prevent. Events of Force Majeure include, without limitation: acts of God; strikes, lockouts, or other industrial disputes; epidemics, civil disturbances, acts of domestic or foreign terrorism, wars within the continental United States, riots or insurrections; landslides, lightning, earthquakes, fires, storms, floods or washouts; arrests and restraint of governments and people; declarations of emergencies by applicable Federal, State, or local authorities; explosions; and breakage or accident to machinery.

If either party is rendered unable, wholly or in part, by Force Majeure to carry out any of its obligations under this Agreement, it is agreed that on such party's giving notice and full description of such Force Majeure as soon as possible, but no later than three days after the occurrence of the cause relied upon, the obligations of the party giving such notice, to the extent it is affected by Force Majeure, shall be suspended during the continuance of the Force Majeure.

If the use of the Department Facilities or the Premises by Client is prevented in whole or in material part by an event of Force Majeure, either party may terminate this Agreement upon written notice. Client agrees that its exclusive remedy in the event of a termination under this Section shall be a refund of the unearned portion of the fees and charges paid by Client hereunder prior to the termination. Except for such refund, the Department shall not be liable or responsible to Client for any damages caused by such termination, and Client hereby releases and waives all claims against the Department, the City, and its officials, officers, employees and agents, for any cost, loss, expense, liability, or damages sustained by reason of such termination.

- f. **Right to Eject.** The City and Director may eject or cause to be ejected from the Premises any person engaging in or conducting him/herself in a manner that is unlawful, disruptive, abusive or offensive at or in the Premises. Neither the City, the Department, the Director, nor any of its officers, agents or employees shall be liable to Client for any damages that may be sustained by Client or the ejected person through the City or the Director's exercise of such right, and Client waives any and all claims for damages against the City due to such removal by the Department or Director.
- g. **Control of Building.** The Department Facilities and Premises, including keys thereto, shall be at all times under control of the Department. The Director and other duly authorized representatives of the City may enter the Premises at all times during the Event Period. The entrances and exits of the Premises shall be locked and unlocked at such times as may be reasonably required by Client for its use of Department Facilities. Client at Client's expense shall provide security guards arranged through the Department in numbers and at locations as determined by the Director, whose duties shall include, but not be limited to, crowd control and building security.
- h. **Scheduling.** The Department may schedule other events before, during and after the Event Period for all areas of Department Facilities not previously contracted by Client without notice to Client. Department is not responsible for impact on attendance, traffic and available parking due to other Department scheduled events or events scheduled by third parties including but not limited to festivals, concerts and special events.
- i. **Copyright Infringement Indemnification.** Client warrants and represents that no music, literary or artistic work or other property protected by copyright will be performed, reproduced or used during the Event unless Client has previously thereto obtained written permission from the copyright holder(s) or has otherwise demonstrated in writing to the satisfaction of the Director the right to use such property. Client acknowledges that it acts under this Agreement as an independent contractor charged with the responsibility, in its sole discretion, for selection, performance, reproduction, and use of such musical, literary and artistic works as Client deems appropriate and that Client shall strictly comply with all laws respecting copyrights and the performance, reproduction and use of musical, literary and artistic works. Client warrants that in the performance of the Event, Client will not infringe any statutory common law or other right of any person in performing, reproducing or otherwise making use of any work or material. CLIENT SHALL INDEMNIFY, SAVE AND HOLD HARMLESS THE CITY, ITS OFFICIALS, AGENTS, EMPLOYEES AND SERVANTS FROM AND AGAINST ALL CLAIMS, COSTS AND EXPENSES (INCLUDING COURT COSTS AND LEGAL FEES), DEMANDS, ACTIONS AND LIABILITY OF EVERY KIND AND CHARACTER WHATSOEVER WITH RESPECT TO INFRINGEMENT OF COPYRIGHTS, TRADEMARKS, OR OTHER INTELLECTUAL PROPERTY RIGHTS, AND THE PERFORMANCE, REPRODUCTION AND USE OF MUSICAL, LITERARY AND ARTISTIC WORKS. Client authorizes the withholding of payment by Director to Client under this Agreement pending the final disposition of any claim which may result from the foregoing indemnification. In the event money held by the City is due Client after resolution of any claim, the City shall refund the balance to the Client.
- j. **Matters Not Covered.** Any decision concerning a matter not specifically covered by this Agreement, on subject matters reasonably inferable from the terms of this Agreement, shall rest solely within the reasonable discretion of the Director, acting by and on behalf of the Department and the City.
- k. **Entireties.** Should any clause, paragraph, sentence or section of this Agreement be determined to be void, illegal or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of the Agreement shall not be rendered void and unenforceable as a result but rather shall remain in full force and effect.

- l. **Venue.** This Agreement is performable in Travis County, Texas and venue for any litigation arising hereunder is in the appropriate courts of Travis County, Texas.
- m. **No Assignment.** Client may not assign this Agreement or any of its rights, obligations and duties hereunder without first receiving the express written consent of the Director.
- n. **Non Waiver.** The Director's acceptance of fees or charges, or failure to complain of any action, non-action or default of Client, whether singular or repetitive, shall not constitute a waiver of any of the City's rights. If Client's payment of any sums due the City is accompanied by written conditions or is represented by Client to be a settlement or satisfaction of any obligation, the Director may accept and deposit such monies without being bound by such conditions or representations unless the Director expressly agrees in a separate written instrument supported by independent consideration. The Director's waiver of any right of the City, or any default of Client's shall not constitute a waiver of any other right or constitute a waiver of any other default or any subsequent default. No act or omission by the Director or the City's agents shall be deemed an acceptance or surrender of the Premises. The City's agents and representatives do not have authority to make any changes in this Agreement, make any agreements with Client, or accept surrender of this Agreement unless same are in writing and signed by an authorized agent of the City. For purposes of this agreement, the Director is the authorized agent of the City.
- o. **Liability of City Agents and Employees.** No member, officer, agent, director or employee of the City may be charged personally or held contractually liable by or to the Client under any term or provision of this Agreement, or because of any breach thereof or because of its or their execution or attempted execution.
- p. **Americans with Disabilities Act.** As of the issuance date of this Agreement, the Department is in compliance with the applicable state accessibility standards for compliance with articles 9102, Texas Civil statutes and agrees to comply with all applicable regulations imposed upon it under the Americans with Disabilities Act (ADA), and all rules and regulations thereunder, provided, however, Client shall provide or pay for the provision of all auxiliary aids and services, as those terms are defined by regulation, which may be required solely to allow a disabled individual to participate in the program, course or conference being offered by Client.
- q. **Rules and Regulations.** The Department's General Rules and Regulations, including but not limited to the Austin Convention Center Department Operational Policy, Insurance Requirements, Rigging Guidelines, Equipment and Services Rate Information, Sample Food and/or Beverage Distribution Authorization Form and Catering Guidelines are hereby incorporated into this Agreement by reference. Client acknowledges receipt of the foregoing rules and regulations. The Department reserves the right to change such rules and regulations in writing from time to time, and shall provide Client with such changed rules and regulations and price lists, which shall be binding to Client upon receipt.
- r. **Entire Agreement.** This Agreement constitutes the entire Agreement between the parties, and supersedes any and all previous oral or written Agreements or representations between the parties. Client agrees that the City and its agents have made no representations or promises with respect to this Agreement, except as expressly set forth herein, and that no claim or liability or cause for termination may be asserted by Client against the City, and the City shall not be liable by reason of the breach of any alleged representation or promise not expressly stated in this Agreement. This Agreement may only be amended in writing signed by both parties. The City and Client are the only parties to this Agreement and as such are the only parties to enforce its terms. Nothing in this Agreement gives or shall be construed to give or provide, any benefit, direct or indirect, to any third party unless a third party is expressly described as an intended beneficiary of its terms.
- s. **Warranty of Authority.** Client warrants and represents that the person signing this Agreement on its behalf has been duly authorized and empowered to do so, that it has taken all action necessary to approve this Agreement, and that this Agreement is a lawful and binding obligation of Client.

WHEREFORE, this Agreement is executed to be effective on the date of the last party to sign.

Client:
Account

City of Austin:
Austin Convention Center Department

By: _____

By: _____

Printed: _____

Printed: Mark Tester

Title: _____

Title: Director

Date: _____

Date: _____