

# AMPHITHEATER EVENT LICENSE AGREEMENT

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**THIS AGREEMENT** is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by the City of Pompano Beach (“CITY”) and \_\_\_\_\_ a \_\_\_\_\_ corporation **OR** limited liability company (“LICENSEE”).

**WHEREAS**, LICENSEE has proposed the use of the facility for an Event, and the CITY has approved and agreed to provide the facility for the purposes of staging said Event; and

**WHEREAS**, LICENSEE is able and prepared to stage the Event at the CITY’s facilities under the terms and conditions set forth herein.

**NOW, THEREFORE**, in consideration of those mutual promises and the terms and conditions set forth hereafter, the parties agree as follows:

1. Amphitheater Facilities and Grounds (Venue). CITY shall make available to LICENSEE the following Amphitheater areas for the Event: stage, seating area, loading dock, production office, ticket booth, and adjoining dressing rooms. The Grounds constitutes the area highlighted under **Exhibit D**. The CITY may, at its sole discretion, allow LICENSEE the use of additional rooms located within the Emma Lou Civic Center at LICENSEE’s request. An additional charge may be added, except for Section 8 Force Majeure events this charge is nonrefundable.
2. Conditions of Use. CITY and LICENSEE desire for LICENSEE to use the Venue to provide and operate an entertainment event under the terms and conditions set forth below and in the City of Pompano Beach Application For Public Event & City Park Use Sheet attached hereto as **Exhibit A** and by reference made a part hereof (the “Event Sheet”). LICENSEE shall complete and provide an Event Sheet to CITY for the Event under this agreement. Capitalized terms not otherwise defined below shall have the meanings ascribed thereto on the Event Sheet. Upon date of execution, LICENSEE shall not include any additional events not already announced in the Event Sheet without first receiving written approval by the City Manager, and an additional charge being applied.
3. Term of Contract. The term of this agreement is for the specified dates of the event found under Exhibit A. This agreement is not subject to renewal.
4. Scope of Work. CITY shall authorize the LICENSEE to utilize the following portions of the Venue for its provision of entertainment as part of the Event: Amphitheater (Venue): the seating areas, stage, backstage areas, dressing rooms, restrooms and entrance way: and production offices (the “Premises”) on the date(s) and at the time(s) specified on the Event Sheet. LICENSEE shall use such premises solely for the presentation of an Event and strictly within CITY’S directives, rules, ordinances and regulations, as provided to LICENSEE. LICENSEE shall not enter any portion of the Venue designated by the CITY to be off-limits including, without limitation, (a) the administrative offices, (b) all back-of-house or service areas, (c) all other non-public areas of the Venue and (d) any other areas reserved by CITY for other parties, absent the written consent of CITY. Nothing herein shall preclude CITY from permitting access to the Venue by

maintenance personnel or other parties, so long as the same does not materially interfere with LICENSEE's use of the Premises for presentation of the Event.

5. Fee and Additional Expenses.

A. Fee; Additional Expenses. For the license to use the Premises, LICENSEE shall pay CITY a fee of four thousand five hundred dollars (\$4,500.00) or four dollars (\$4.00) per ticket sold, excluding complimentary tickets and giveaways, whichever is greater for the event. In addition, LICENSEE shall be responsible to pay all Venue costs and expenses related to the Event.

B. Fee Payment. LICENSEE shall provide payment to the CITY upon forty five calendar days (45) after the Event takes place. Prior to providing payment, LICENSEE shall provide the CITY with a detailed accounting report within ten (10) business days following the Event, including but not limited to, all ticket sales, all promotional or complimentary tickets, all refunds and a beginning count of all seating that would be available for ticket sales or complimentary tickets. All counts shall include seated and standing room tickets that could be sold for the event.

6. Rights and Responsibilities.

A. The Facilities. Prior to the Event LICENSEE and CITY shall inspect the Venue. The CITY, at its sole discretion, may correct any issues highlighted by LICENSEE during inspection. LICENSEE shall be responsible for scheduling the inspection with the CITY. CITY shall deliver the Premises in good clean working order as reasonably necessary to carry on the presentation of the Event. On the day of the event LICENSEE shall maintain the premises to ensure that all facilities are functional. CITY shall provide customary and normal lighting, and water (for ordinary drinking, toilet or janitorial purposes) at no additional cost to LICENSEE. CITY shall not be in breach of this Agreement if CITY'S failure to provide any of the foregoing is caused by circumstances beyond its reasonable control. CITY represents and warrants that it has the full right, power and authority to enter into and perform its obligations under this Agreement and that CITY will, at all times during the term of this Agreement, comply with all applicable federal, state and local laws, rules and regulations. LICENSEE represents and warrants that it has inspected the Premises and the available utilities and facilities at the Venue, and that LICENSEE accepts them "AS IS," with the exception of latent defects of the Venue. Also, LICENSEE agrees to vacate and return the Premises to CITY in the same condition as was accepted by LICENSEE, ordinary wear and tear excepted. In no event shall LICENSEE affix or attach any item to, or otherwise cover, any wall, surface or area of the Venue. LICENSEE shall be responsible for the costs associated with repairing and replacing any and all damages to the Venue or loss of property occurring in connection with the Event or LICENSEE's use of the Premises including, without limitation, damages caused by LICENSEE, its members, partners, owners, officers, directors, employees, contractors, agents and other persons assisting LICENSEE (whether on a paid or voluntary basis), patrons, guests and invitees, participants and artists appearing in the Event (including support personnel in connection with the presentation of the Event), but specifically excluding CITY'S employees and authorized agents. LICENSEE shall provide any and all other equipment necessary to conduct the Event.

B. Concessions. LICENSEE and its subcontractors shall comply with **Exhibit C**, Alcohol Policy, attached hereto and by reference made a part hereof.

C. Event Merchandise Sales. If LICENSEE desires for any Event Merchandise to be sold at the Event, such sales shall be conducted exclusively by LICENSEE, at retail prices established by LICENSEE. In exchange for such services, LICENSEE shall be entitled to retain the percentage of Event Merchandise Revenue identified on the Event Sheet. As used herein, “**Event Merchandise**” refers to LICENSEE supplied merchandise related specifically to the Event or an artist performing at the Event (e.g., Event program, event souvenirs, artist clothing), as approved by CITY. “**Event Merchandise Revenue**” means the gross revenue derived from the sale of Event Merchandise, less taxes, credit card fees and, if requested by LICENSEE, costs of bootleg security. Licensee shall ensure that no unlawful merchandise is sold, which includes but is not limited to Federal, State, and local laws and regulations as well as the City’s Code of Ordinances. City retains the right to have the sale of any merchandise it deems objectionable to be halted upon request from its authorized representative.

D. Catering. Catering services, if any, will be supplied and the costs of such catering services shall be the responsibility of LICENSEE or by LICENSEE or LICENSEE’s caterer at the Venue.

E. Event Staffing. LICENSEE shall provide all personnel required to staff the Venue, including, but not limited to, all box office personnel, ticket sellers, ticket takers, ushers, security guards, security, custodians, rest room attendants and such other personnel as CITY, in its reasonable discretion, shall deem required, together with such additional personnel as LICENSEE may reasonably request. CITY shall consult with LICENSEE, if and when requested by LICENSEE, regarding staffing levels; provided that final decisions regarding staffing levels shall be made by CITY. All such personnel shall be provided only by or through LICENSEE. Notwithstanding the foregoing, LICENSEE may bring in additional security personnel for the Event subject to reasonable advance notice and approval of CITY and at the sole cost and expense of LICENSEE. LICENSEE agrees and acknowledges that under no circumstance shall CITY be liable or responsible for the activities and/or actions of the parties providing security services that are engaged by LICENSEE or any representative of LICENSEE. The costs of such personnel shall be part of the Additional Expenses and is the responsibility of LICENSEE unless otherwise explicitly set forth herein.

F. Technical Control and Crowd Management. LICENSEE shall retain the exclusive right of technical control and crowd management, including controlling access, stairways, elevators and escalators, light levels (provided that the parties will work together to achieve light levels that are mutually acceptable and approved by the Pompano Beach fire marshal) and/or the ability to shut off power in the Venue or to remove personnel (including technical personnel) and/or equipment from unauthorized areas, it being agreed that understood that CITY will work with LICENSEE in good faith with respect to any technical control or crowd management issues in connection with the Event.

G. Box Office Facilities, Ticket Sales; Refunds. If tickets to the Event are to be sold to the general public:

- i. LICENSEE reserves the right to determine, in its sole but reasonable discretion, when a refund should be given to a ticket holder including, for example, when such ticket holder’s view of the performance is obstructed and a comparable exchange is not available, equipment fails, a performer fails to perform within a

reasonable time of its designated performance time, non-appearance of a performer, or CITY determines that LICENSEE has failed to produce or deliver what it advertised, in whole or in part, or for any other reason that would otherwise adversely affect the public's faith in CITY.

ii. (a) all ticket sales for entry shall be accounted for whether sold or given away at no charge. All tickets sold or given away shall be printed, and accounted for exclusively through LICENSEE's Box Office and LICENSEE's designated ticket agency, and (b) LICENSEE shall handle over-the-counter advance and day-of-event sales for LICENSEE at the Venue box office (the "**Box Office**"). In such instance, LICENSEE's Box Office Manager shall be responsible for properly depositing all monies, and preparing box office statements and other reports as are reasonably necessary and required, and as determined by CITY in its reasonable discretion. No funds shall be released from the Box Office prior to settlement of a performance of the Event.

H. Website Domain and Marketing Materials. CITY will allow the Event to be marketed at its website. CITY will work with LICENSEE to coordinate marketing and promotion of the event.

I. Security. LICENSEE shall utilize CITY's contracted law enforcement agency to provide security personnel for the security of the Event in addition to any private security the LICENSEE may want to utilize. LICENSEE shall be responsible for the costs of the City's contracted law enforcement agency as well as any additional private security utilized by LICENSEE.

J. Parking. LICENSEE may utilize the area identified in **Exhibit D** attached hereto and made a part hereof to provide free parking for patrons.

7. Obligations of LICENSEE. In addition to the other obligations set forth in this Agreement, LICENSEE shall be responsible for the following:

A. Performance; Production. LICENSEE shall be solely responsible for any performances at the Event, including arranging for such performances, contracting with, and paying all amounts owed to such performers in connection with their performance at the Event. LICENSEE shall also be solely responsible for all costs associated with and the coordination of the production of any performances at the Event. LICENSEE hereby represents and warrants that it has, or will have, a valid and enforceable contract with the performers of the Event.

B. Licenses and Permits. LICENSEE shall be responsible for obtaining all licenses or permits necessary for the performance of the Event as required by Federal, State or local laws or ordinances (including, without limitation, ASCAP, BMI and all other similar licenses), providing CITY with written evidence of the same to CITY upon request, and paying all costs associated with all taxes, excise or license fees related to LICENSEE's use of the Premises.

C. Compliance with Laws and CITY'S Rules & Regulations. LICENSEE shall abide by, and shall cause all of its servants, agents, employees, representatives and subcontractors, and all of the performers at the Event and such performers' respective

servants, agents, employees, representatives and subcontractors to strictly abide by all applicable laws and regulations, as well as all of CITY'S directives, instructions, rules, ordinances and regulations provided to LICENSEE for the use, occupancy, and operation of the Venue, including without limitation, the requirement that every individual must enter the Premises through magnetometers and be subject to all security measures during each entry.

D. Observance of Public Safety. LICENSEE shall at all times conduct its activities with full regard to the public safety and will observe and abide by all applicable regulations and requests by authorized governmental agencies responsible for public safety. All portions of the sidewalks, entries, doors, passages, halls, corridors, stairways, and all ways of access to public utilities of the Venue shall be kept unobstructed by LICENSEE and shall not be used for any purpose other than ingress and egress to and from such portions of the Premises unless CITY otherwise agrees. In an effort to ensure public safety, LICENSEE agrees that neither it, nor any Event participant or artist, will make any comment or statement at any time that may incite or encourage the crowd to act in any manner that might cause injury or damage to any persons or property, including, without limitation, any equipment or property located at Venue. LICENSEE shall be solely responsible for, and hereby agrees to indemnify CITY from all claims, costs, damages, injuries or losses incurred as a result of any such actions, statements or behavior by Event participants or artists.

E. Responsible for Property. LICENSEE shall be responsible for any property placed on the Premises by LICENSEE, its agents or representatives, any performer of the Event or such performer's agents or representatives. CITY shall accept delivery of such property solely as a courtesy to LICENSEE, and LICENSEE shall indemnify and hold harmless CITY for any loss or damages to such property in the receipt, handling, care, and custody of such property at any time, except for any loss or damage caused by the willful misconduct of CITY or its employees. CITY assumes no responsibility for such property and CITY is expressly relieved and discharged from any liability for any loss, injury or damage to such property while on the Premises, except for any loss, damage or injury caused by the willful misconduct of CITY or its employees. LICENSEE shall remove all such property from the Premises by the Move Out Date & Time specified on the Event Sheet. If LICENSEE fails to so remove such property, CITY may retain, use or destroy the same upon five (5) business days' notice to LICENSEE and an opportunity to retrieve such property.

F. Advertisements & Sponsors. City reserves the right to have any objectionable sponsorship material removed from the Venue at its sole discretion.

8. Broadcast Rights/Recordings. The parties hereby agree that no third party may broadcast or record the performance of the Event without the consent of both CITY and LICENSEE. CITY agrees that, subject to the execution by LICENSEE and CITY of a Location Agreement for the Event, which terms shall govern any commercial recodation or broadcast, LICENSEE shall be authorized to engage in the commercial recodation or broadcast of the Event. CITY shall be entitled to an advance payment by LICENSEE of a fee for such privileges, as well as any and all estimated related costs to be incurred by the CITY. CITY shall have no responsibility or liability for any broadcasts or recordings including, without limitation, any liability related to any violation of any rights of others related to such broadcasting, except with respect to any claims resulting from the willful misconduct of CITY or its employees. LICENSEE shall be solely responsible for all costs related to any broadcasts or recordings of the Event, including without limitation, any and all costs associated with any claims asserted by any third party that such broadcast or recording infringes upon such third party's intellectual property or other rights or is in any

way defamatory towards or offensive to such third party, except with respect to any claims resulting from the willful misconduct of CITY or its employees.

9. Force Majeure. If a performance of the Event cannot take place, in whole or in part, or either party cannot perform any of its obligations hereunder because of an act or regulation of public authority, fire, riot or civil commotion, lockout or strike or other labor dispute, terrorist acts, acts or declarations of war, substantial interruption in, or substantial delay or failure of, technical facilities, war conditions, acts of God or other occurrence outside the reasonable control of CITY ("**Force Majeure Event**"), neither party shall have any obligation or liability whatsoever to the other party as a result thereof. LICENSEE shall not be responsible for any fees to the CITY, if LICENSEE has made partial use of the Premises and LICENSEE shall reimburse CITY for any non-cancellable expenses that have been incurred by CITY in direct preparation for the Event.

10. Indemnification.

A. LICENSEE shall at all times indemnify, save, hold harmless and defend the CITY its officials, its authorized agents, and its employees hereunder from and against any and all claims, demands, suit, damages, attorneys' fees, fines, penalties, defense costs or liabilities arising directly, indirectly or in connection with this Agreement and LICENSEE's use of the Venue, and with LICENSEE's officers, staff or other agents' actions, negligence or misconduct under this Agreement whether same occurs or the cause arises on or away from the Property except that LICENSEE shall not be liable under this Article for damages arising out of injury or damage to persons or Property arising from the negligence, gross negligence or willful misconduct of the CITY, any of its officers, agents or employees. LICENSEE agrees to investigate, handle, respond to, provide defense for, and defend any such claims at its sole expense and to bear all costs and expenses related thereto, even if the claim(s) is/are groundless, false or fraudulent. The foregoing indemnification shall not be operative as to any claims by LICENSEE for any causes of action LICENSEE has or may have for breaches or defaults by the CITY under this Agreement.

B. LICENSEE acknowledges and agrees that neither party would enter into this Agreement without this indemnification of CITY by LICENSEE. The parties agree that authorization to use of CITY's facility by LICENSEE for its Event shall constitute consideration or alternatively one percent (1%) of the any moneys obtained by LICENSEE by or through its use of CITY facilities for the event, shall constitute specific consideration to LICENSEE for the indemnification to be provided under the contract.

C. LICENSEE shall be solely responsible for insuring all stock, inventory, monies or other personal Property at the Property against damage or loss of any nature or kind. LICENSEE acknowledges and agrees that CITY assumes no responsibility whatsoever for any personal property placed at the Property and, with the exception of damages or loss suffered as a result of CITY'S negligence, CITY is hereby expressly released and discharged from any and all liability for any loss, injury or damage to persons or property which may be sustained by reason of LICENSEE's presence and occupancy at the Property.

D. The indemnification provisions of this Article shall survive the expiration or early termination of this Agreement.

E. Nothing contained in this Agreement is intended to serve as a waiver of the CITY's sovereign immunity as provided for in §768.28, Florida Statutes.

11. Termination.

A. Termination for Cause. If any party fails to substantially perform its material obligations hereunder (the "**Defaulting Party**") in a manner that results in material harm, loss or other damage to the other party ("**Event of Default**"), and if curable, such Event of Default is not cured within two (2) business days after receipt by the Defaulting Party of written notice thereof, then the other party may terminate this Agreement by giving written notice thereof to the Defaulting Party. CITY reserves the right to terminate this Agreement by written notice in the event it determines that the work performed by LICENSEE is unsatisfactory or in any way does not meet the reasonable approval of CITY and, if curable, LICENSEE has not cured the condition causing it to be unsatisfactory or not to CITY'S reasonable approval within two (2) business days following written notice from CITY. Upon termination of this Agreement by CITY in accordance with the terms of this Agreement, CITY may reenter the Premises and hold the same, remove all persons therefrom and resort to any legal proceedings to obtain such possession, and notwithstanding such termination, LICENSEE shall be fully responsible for payment of all amounts otherwise owing to CITY under this Agreement including, without limitation, the License Fee and the Additional Expenses. Upon a proper termination of this Agreement by LICENSEE in accordance with this Section 9, CITY shall return any portion of the Deposit not otherwise used to cover amounts owing by LICENSEE prior to such termination. The foregoing remedies are in addition to and not in lieu of any other rights or remedies available to the parties at law or in equity.

B. Termination for Convenience of CITY. Upon sixty (60) calendar days written notice in accordance with Article 22 herein, to LICENSEE, CITY may without cause and without prejudice to any other right or remedy, terminate this Agreement for convenience whenever it determines that such termination is in the best interest of CITY. If the Agreement is terminated for the CITY's convenience, the notice of termination to LICENSEE shall state so and also define the extent of the termination. Upon receipt of such notice, LICENSEE shall use commercially reasonable efforts to discontinue all services hereunder to the extent indicated on the notice of termination and CITY shall not be responsible for any costs LICENSEE incurs as a result of said termination for convenience.

C. Termination for Safety. CITY by and through its authorized agents may terminate any event immediately upon the occurrence of any riot, violent disturbance or similar conduct stemming from this event which threatens the immediate health or safety of the public.

12. Insurance. LICENSEE shall maintain insurance in the amounts and subject to all conditions set forth in **Exhibit B** and shall not commence operations under this Agreement until proof of insurance detailing the terms and provisions of coverage has been received and approved in writing by the City's Risk Manager, which approval shall not be unreasonably withheld.

13. Objectionable Persons. LICENSEE reserves the right to refuse admission to, eject or cause to be ejected from the Premises, through legally sanctioned means, any reasonably objectionable person or persons, in its sole judgment (as exercised by any CITY party), provided that where practicable, and solely in circumstances where in CITY or its representatives sole judgment there is no immediate threat or safety concern presented, CITY will make reasonable efforts to consult

with LICENSEE's Event security team prior to refusing admission or ejecting any invited guest of the Event.

14. Confidentiality. Upon receipt of any confidential information by City, said information becomes "a public record" and shall be subject to public disclosure consistent with Chapter 119, Florida Statutes. If LICENSEE wishes to claim an exemption to disclosure, they shall provide the specific statutory authority for the claimed exemption, identifying the data or other materials to be protected and stating the reasons why such exclusion from public disclosure is necessary. However, if a request is made of the CITY, pursuant to chapter 119, Florida Statute, for public disclosure of proprietary property of LICENSEE, the CITY shall advise LICENSEE of such request and it shall be CITY's sole burden and responsibility to immediately seek and obtain such injunctive or other relief from the courts and to immediately serve notice of the same upon the party requesting the public records.

15. Taxes. LICENSEE shall be responsible for paying any and all taxes on the ticket sales revenue it collects (specifically excluding the LICENSEE Fee) and any other taxable revenues retained from the Event.

16. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of Florida, without regard to its conflict of law provisions, and any dispute which may arise under this Agreement shall be submitted to the exclusive jurisdiction of the state or federal courts located in Broward County, Florida.

17. Amendments in Writing; Severability. This Agreement may only be amended by an instrument in writing signed by the parties hereto. If any term or provision of this Agreement, shall be declared invalid or unenforceable the remainder of the provisions shall continue in force and effect to the fullest extent permitted by law.

18. Interpretation. LICENSEE and CITY hereby agree that notwithstanding any modifications or revisions to this Agreement that may have been drafted by either party hereto, this Agreement as so modified or revised, shall not be construed either for or against LICENSEE or CITY in the event of any ambiguities contained herein and this circumstance alone shall not create any presumption or implication favoring or prejudicing the position of either LICENSEE or CITY.

19. Assignment; Successors. Neither party may assign its rights or obligations under this Agreement to any other person or entity (except to a parent, related or affiliated company) without the other party's prior written consent. This Agreement shall be binding upon and inure to the benefit of the permitted successors and assigns of the respective parties and any person claiming, by, through or under and of the respective permitted successors or assigns.

20. Independent Contractor. It is understood and agreed that the parties shall, for the purposes of this Agreement, be independent LICENSEEs and neither CITY nor LICENSEE shall hold the other out as representing or acting in any manner for CITY or LICENSEE, as applicable, except as set forth herein.

21. Entire Agreement; Counterparts. This Agreement, the Event Sheet and any appendix attached thereto express and contain the entire agreement and understanding between the parties hereto with respect to the subject matter hereof and supersedes and replaces any and all prior



agreements and understandings, either oral or written, with respect to the subject matter hereof. This Agreement may be executed in counterparts, signed and agreed to by both parties, and when all counterpart documents are executed, the counterparts shall constitute a single binding instrument and facsimile copies, PDFs. or photocopies of signatures shall be as valid as originals.

22. Notices. All notices hereunder or with respect to this Agreement, shall be in writing, and shall be deemed duly given or made (i) upon delivery or refusal of such delivery by a recognized courier service; and (ii) upon personal delivery (which shall be deemed to have been given upon delivery) and in each case addressed as follows (or at such other address for a party as shall be specified in a notice so given:

If to **LICENSEE:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If to **CITY:**

**CITY OF POMPANO BEACH**

For CITY:

CITY Manager  
P.O. Drawer 1300  
Pompano Beach, Florida 33061  
greg.harrison@copbfl.com  
(954) 786-4601 office  
(954) 786-4504 fax

With a copy to:

Recreation Program Administrator  
1801 NE 6th Street  
Pompano Beach, Florida 33060  
mark.beaudreau@copbfl.com  
(954) 786-4191 office  
(954) 786-4113 fax

23. Waiver. The rights and remedies of the parties to this Agreement are cumulative and not exclusive of the rights and remedies that they otherwise may have now or hereafter at law, in equity, by statute or otherwise. Neither the failure nor any delay by any party in exercising any right, power or privilege under this Agreement or the documents referred to in this Agreement will operate as a waiver of such right, power or privilege, and no single or partial exercise of any such right, power or privilege will preclude any other or further exercise of such right, power or privilege or the exercise of any other right, power or privilege.

24. No Third Party Beneficiaries. This Agreement is not intended to confer upon any person other than the parties hereto (and their respective successors and assigns) any rights or remedies under this Agreement.

25. Recordkeeping, Inspection, Audit and Public Records Procedures.

A. LICENSEE shall use such accounting methods and procedures as may be prescribed by CITY, in accordance with generally accepted accounting principles, which shall include but not be limited to, those methods and procedures set forth in this Article.

B. LICENSEE shall provide CITY with detailed accounting reports for examination and audit of each Event as requested by CITY. Reports related to the Event shall include but not be limited to, a true and accurate amount of all ticket monies received to the Event, which shall include but not be limited to ticket sales, and reports generated by ticket agencies.

C. The LICENSEE shall permit the authorized representatives of the CITY to inspect and audit all data and records of the LICENSEE, if any, relating to performance under the contract until the expiration of three years after final payment under this contract.

The LICENSEE further agrees to include in all its subcontracts hereunder a provision to the effect that the subcontractor agrees that CITY or any of their duly authorized representatives shall, until the expiration of three years after final payment under the subcontractor, have access to and the right to examine any directly pertinent books, documents, papers and records of such subcontractor, involving transactions related to the subcontractor.

26. Public Records.

A. The CITY of Pompano Beach is a public agency subject to Chapter 119, Florida Statutes. The LICENSEE shall comply with Florida's Public Records Law, as amended. Specifically, the LICENSEE shall:

1. Keep and maintain public records required by the CITY in order to perform the service.
2. Upon request from the CITY'S custodian of public records, provide the CITY with a copy of requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law.
3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the LICENSEE does not transfer the records to the CITY.
4. Upon completion of the Agreement, transfer, at no cost to the CITY, all public records in possession of the LICENSEE, or keep and maintain public records required by the CITY to perform the service. If the LICENSEE transfers all public records to the CITY upon completion of the Agreement, the LICENSEE shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the LICENSEE keeps and maintains public records upon completion of the contract, the LICENSEE shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the CITY, upon request from the CITY'S custodian of public records in a format that is compatible with the information technology systems of the CITY.

B. Failure of the LICENSEE to provide the above described public records to the CITY within a reasonable time may subject LICENSEE to penalties under 119.10, Florida Statutes, as amended.

## **PUBLIC RECORDS CUSTODIAN**

**IF THE LICENSEE HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE LICENSEE'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:**

**CITY CLERK  
100 W. Atlantic Blvd., Suite 253  
Pompano Beach, Florida 33060  
(954) 786-4611  
[RecordsCustodian@copbfl.com](mailto:RecordsCustodian@copbfl.com)**

27. No Discrimination. During the performance of this Agreement, LICENSEE agrees not to discriminate against any person based on race, color, religion, sex, age, national origin, ancestry, marital status, physical or mental disability. However, with justifiable cause, LICENSEE maintains the right to refuse patrons or its agents hereunder from participation in the Event.

28. Public Entity Crimes Act. Through execution of this Agreement and in accordance with Section 287.133, Florida Statutes, LICENSEE certifies that it is not listed on the convicted vendors list maintained by the State of Florida, Department of General Services.

29. Event Cancellation. With the exception of circumstances listed under Section 8, Force Majeure, LICENSEE shall provide CITY with a cancellation notice in writing at least ten (10) calendar days before any Event cancellation. In the event LICENSEE cannot provide notice of cancellation within ten (10) calendar days, LICENSEE shall pay CITY a cancellation fee of three hundred and fifty dollars (\$350.00). CITY reserves the right to offer LICENSEE another venue such as the Cultural Arts Center upon mutual written agreement, if any cancelled Event desires to move to another local venue.

30. Ticket Counts. LICENSEE shall provide, at least weekly, ticket sale counts for the Event once booked and confirmed, to CITY.

31. Disputes. Any factual disputes between CITY and LICENSEE in regards to this Agreement shall be directed to the City Manager for the City, and such decisions shall be final.

32. Sovereign Immunity. Nothing in this Agreement shall be construed to affect in any way the rights, privileges and immunities of the City and agencies, as set forth in Article 768.28, Florida Statutes.

33. Performance Under Law. The LICENSEE, in the performance of duties under the Agreement, agrees to comply with all applicable local, state and/or federal laws and ordinances including, but not limited to, standards of licensing, conduct of business and those relating to criminal activity.
34. Adherence to Law. Both parties shall adhere to all applicable laws governing their relationship with their employees including, but not limited to, laws, rules, regulations and policies concerning worker's compensation, unemployment compensation and minimum wage requirements.
35. Mutual Cooperation. The LICENSEE recognizes that the performance of this contract is essential to the provision of vital public services and the accomplishment of the stated goals and mission of CITY. Therefore, the LICENSEE shall be responsible to maintain a cooperative and good faith attitude in all relations with City and shall actively foster a public image of mutual benefit to both parties. The LICENSEE shall not make any statements or take any actions detrimental to this effort.
36. No Contingent Fee. LICENSEE warrants that other than a bona fide employee working solely for LICENSEE has not employed or retained any person or entity, or paid or agreed to pay any person or entity, any fee, commission, gift or any other consideration to solicit or secure this Agreement or contingent upon or resulting from the award or making of this Agreement. In the event of LICENSEE'S breach or violation of this provision, CITY shall have the right to terminate this Agreement without liability.
37. Attorneys' Fees and Costs. In the event of any litigation involving the provisions of this Agreement, both parties agree that the prevailing party in such litigation shall be entitled to recover from the non-prevailing party reasonable attorney and paraprofessional fees as well as all out-of-pocket costs and expenses incurred thereby by the prevailing party in such litigation through all appellate levels.
38. Headings. The headings or titles to Articles of this Agreement are not part of the Agreement and shall have no effect upon the construction or interpretation of any part of this Agreement.
39. Approvals. Whenever CITY approval(s) shall be required for any action under this Agreement, said approval(s) shall not be unreasonably withheld.
40. Absence of Conflicts of Interest. Both party's represent they presently have no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with their performance under this Agreement and that no person having any conflicting interest shall be employed or engaged by either party in their performance hereunder.
41. Binding Effect. The benefits and obligations imposed pursuant to this Agreement shall be binding and enforceable by and against the parties hereto.

**THIS SPACE INTENTIONALLY LEFT BLANK**

**IN WITNESS WHEREOF**, the parties have hereunto set their hands and seals the day and year first above written.

**“CITY”:**

Witnesses:

**CITY OF POMPANO BEACH**

\_\_\_\_\_

By: \_\_\_\_\_  
REX HARDIN, MAYOR

\_\_\_\_\_

By: \_\_\_\_\_  
GREGORY P. HARRISON, CITY MANAGER

Attest:

\_\_\_\_\_  
ASCELETA HAMMOND, CITY CLERK

(SEAL)

Approved As To Form:

\_\_\_\_\_  
MARK E. BERMAN, CITY ATTORNEY

STATE OF FLORIDA  
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by **REX HARDIN** as Mayor, **GREGORY P. HARRISON** as CITY Manager and **ASCELETA HAMMOND** as CITY Clerk of the CITY of Pompano Beach, Florida, a municipal corporation, on behalf of the municipal corporation, who are personally known to me.

NOTARY’S SEAL:

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF FLORIDA

\_\_\_\_\_  
(Name of Acknowledger Typed, Printed or Stamped)

\_\_\_\_\_  
Commission Number

**"LICENSEE":**

Witnesses:

Company Name

\_\_\_\_\_

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

Name, Title

\_\_\_\_\_

Print Name

\_\_\_\_\_

\_\_\_\_\_

Print Name

STATE OF FLORIDA

COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_ as \_\_\_\_\_ of \_\_\_\_\_, a Florida corporation on behalf of the corporation or a Florida limited liability company on behalf of the company. He/she is personally known to me or who has produced \_\_\_\_\_ (type of identification) as identification.

NOTARY'S SEAL:

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF

\_\_\_\_\_  
(Name of Acknowledger Typed, Printed or Stamped)

\_\_\_\_\_  
Commission Number