



## INDEMNIFICATION AND HOLD HARMLESS AGREEMENT FOR USE OF CITY GROUNDS AND FACILITIES

In consideration for the use of City grounds and facilities and to the furthest extent allowed by law, Permittee does hereby agree to indemnify, hold harmless and defend the City of Fresno and each of its officers, officials, employees, agents and volunteers (hereinafter collectively referred to as "City") from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) incurred by City, Permittee or any other person, and from any and all claims, demands and actions in law or equity (including attorney's fees and litigation expenses), arising or alleged to have arisen directly or indirectly out of use of City grounds and facilities by the Permittee or any of his/her/its officers, officials, employees, agents, volunteers or invitees. Permittee's obligations under the preceding sentence shall apply regardless of whether City or any of its officers, officials, employees, agents or authorized volunteers are negligent, but shall not apply to any loss, liability, fines, penalties, forfeitures, costs or damages caused solely by the gross negligence, or caused by the willful misconduct, of City or any of its officers, officials, employees, agents or authorized volunteers.

Throughout the life of this Agreement, Permittee shall pay for and maintain in full force and effect all insurance as required in Exhibit A, which is incorporated into and part of this Agreement, or as may be authorized or required in writing by City's Risk Manager or his/her designee at any time and in his/her sole discretion.

Permittee shall conduct all defense at his/her/its sole cost. The fact that insurance is obtained by Permittee shall not be deemed to release or diminish the liability of Permittee, including, without limitation, liability assumed under this Agreement. The duty to indemnify shall apply to all claims regardless of whether any insurance policies are applicable. The duty to defend hereunder is wholly independent of and separate from the duty to indemnify and such duty to defend exists regardless of any ultimate liability of Permittee. The policy limits do not act as a limitation upon the amount of defense and/or indemnification to be provided by Permittee. Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of Permittee, its officials, officers, employees, agents, volunteers, or invitees.

City shall be reimbursed for all costs and attorney's fees incurred by City in enforcing this Agreement.

This Indemnification and Hold Harmless Agreement shall survive the use of City grounds and facilities.

**The undersigned acknowledges that he/she (i) has read and fully understands the content of this Indemnification and Hold Harmless Agreement; (ii) is aware that this is a contract between the City and Permittee; (iii) has had the opportunity to consult with his/her attorney, in his/her discretion; (iv) is fully aware of the legal consequences of signing this document; and (v) is the Permittee or his/her/its authorized signatory.**

Signed, sealed and delivered this \_\_\_\_ day of \_\_\_\_ 2016.

\_\_\_\_\_  
Permittee

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Telephone Number



EXHIBIT "A"

**INSURANCE REQUIREMENTS FOR USE OF CITY GROUNDS AND FACILITIES**

In consideration for the issuance of a Permit for Use of City Grounds and Facilities, Permittee shall pay for and maintain in full force and effect all policies of insurance required herein with an insurance company(ies) either (i) admitted by the California Insurance Commissioner to do business in the State of California and rated not less than "A-VII" in Best's Insurance Rating Guide, or (ii) authorized by City's Risk Manager or his/her designee at any time in his/her sole discretion. The following policies of insurance are required and shall maintain limits of liability of not less than those amounts stated below, however, the insurance limits available to the City of Fresno, its officers, officials, employees, agents and volunteers as additional insureds, shall be the greater of the minimum limits specified herein or the full limit of any insurance proceeds available to the named insured.

- (1) **COMMERCIAL GENERAL LIABILITY (CGL)** insurance which shall be at least as broad as the most current version of Insurance Services Office (ISO) Commercial General Liability Coverage Form CG 00 01 providing liability coverage arising out of your business operations. The CGL policy shall be written on an occurrence form and shall provide coverage for "bodily injury", "property damage" and "personal and advertising injury" with coverage for premises and operations (including the use of owned and non-owned equipment) products and completed operations and contractual liability (including, without limitation, indemnity obligations under the Agreement) with limits of liability of not less than the following:

- (i) \$1,000,000 per occurrence for bodily injury and property damage;
- (ii) \$1,000,000 per occurrence for personal and advertising injury;
- (iii) \$2,000,000 aggregate for products and completed operations; and,
- (iv) \$2,000,000 general aggregate applying separately to the work performed under the Contract.

- (2) **LIQUOR LIABILITY INSURANCE: If alcoholic beverages are to be sold\*, served or furnished, GGL** insurance shall be endorsed to include coverage for liquor liability with limits of liability of not less than:

- (i) \$1,000,000 per occurrence;
  - (ii) \$2,000,000 aggregate for bodily injury and property damage;
- OR**
- (iii) Permittee shall pay for and maintain the most current version of ISO Liquor Liability Coverage Form CG 00 33, which shall include insurance for bodily injury and property damage with limits of liability of not less than:
    - (a) \$1,000,000 per occurrence; and,
    - (b) \$2,000,000 aggregate for bodily injury and property damage.

**The responsibility for Liquor Liability Insurance may be assigned to Permittee's concessionaire/vendor. \*If Permittee intends to sell alcohol either the Permittee or concessionaire/vendor providing the alcohol for sale must have a valid liquor sales license and Liquor Liability Insurance covering sale of alcohol.**

- (3) **COMMERCIAL AUTOMOBILE LIABILITY\* (CAL) (Where Applicable)** insurance which shall be at least as broad as the most current version of ISO Business Auto Coverage form CA 00 01 providing liability coverage arising out of the ownership, maintenance or use of automobiles in the course of your business operations. The CAL policy shall be written on an occurrence form and shall provide coverage for "all owned, hired, and non-owned automobiles or other licensed vehicles (Code 1 - Any Auto) with limits of liability of not less than the following:

- (i) \$1,000,000 per accident for bodily injury and property damage
- OR**
- \*PERSONAL AUTOMOBILE LIABILITY insurance with limits of liability not less than:**
- (i) \$100,000 per person;
  - (ii) \$300,000 per accident for bodily injury; and,
  - (iii) \$50,000 per accident for property damage.



- (4) **WORKERS' COMPENSATION** insurance as required by the State of California and **EMPLOYERS' LIABILITY (Where Applicable)** insurance with limits of \$1,000,000 each accident, \$1,000,000 disease each employee and \$1,000,000 disease policy limit. *(Only required if Permittee has employees.)*
- (5) **DEDUCTIBLES/SELF-INSURED RETENTIONS** - Permittee shall be responsible for payment of any deductibles contained in any insurance policies required herein and Permittee shall also be responsible for payment of any self-insured retentions. Any deductibles or self-insured retentions must be declared to on the Certificate of Insurance, and approved by, the City's Risk Manager or his/her designee. At the option of the City's Risk Manager or his/her designee, either:
- (i) The insurer shall reduce or eliminate such deductibles or self-insured retention as respects City, its officers, officials, employees, agents and volunteers; or
  - (ii) Permittee shall provide a financial guarantee, satisfactory to City's Risk Manager or his/her designee, guaranteeing payment of losses and related investigations, claim administration and defense expenses. At no time shall City be responsible for the payment of any deductibles or self-insured retentions.
- (6) **SUBCONTRACTORS/VENDORS:** If Permittee should subcontract all or any of the event activities e.g. vendor to be performed under this Agreement Permittee shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein and Permittee shall ensure that the City, its officers, officials, employees, agents and volunteers are additional insureds. The subcontractors' certificates and endorsements shall be on file with the Permittee and City prior to the commencement of any events/activities by the subcontractor.
- (7) **ENDORSEMENTS:** All non-ISO endorsements amending policy coverage shall be executed by a licensed and authorized agent or broker. **Permittee shall have furnished City with the certificate(s) and applicable endorsements for ALL required insurance fourteen (14) days prior to the Use of City Grounds and Facilities.**
- (i) All policies of insurance required herein shall be endorsed to provide that the coverage shall not be cancelled, non-renewed, reduced in coverage or in limits except after thirty (30) calendar day written notice by certified mail, return receipt requested, has been given to the City. Permittee is also responsible for providing written notice to the City under the same terms and conditions. Upon issuance by the insurer, broker, or agent of a notice of cancellation, non-renewal or reduction in coverage or in limits, Permittee shall furnish the City with a new certificate and applicable endorsements for such policy(ies). **In the event any policy is due to expire during the special event, Permittee shall provide a new Certificate and applicable endorsements evidencing renewal of such policy(ies) not less than fifteen (15) calendar days prior to the expiration date of the expiring policy.**
  - (ii) The CGL, CAL and Liquor Liability (if applicable) insurance policies shall name the City of Fresno, its officers, officials, agents, employees and volunteers as additional insureds.
  - (iii) All policies of insurance shall be primary with respect to the City of Fresno, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the City of Fresno, its officers, officials, employees, agents and volunteers shall be excess of the Permittee's insurance and not contribute with it.
  - (iv) Any Workers' Compensation insurance policy shall contain a waiver of subrogation as to City of Fresno, its officers, officials, agents, employees and volunteers.
- (9) **PROVIDING OF DOCUMENTS:** Upon request of City, Permittee shall immediately furnish City with a complete copy of any insurance policy required under this Agreement, including all endorsements, with said copy certified by the underwriter to be a true and correct copy of the original policy. This requirement shall survive the expiration or termination of the Permit.
- (10) **MAINTENANCE OF COVERAGE:** If at any time during the Use of City Grounds and Facilities, Permittee fails to maintain the required insurance in full force and effect, the Use of City Grounds and Facilities shall be discontinued immediately until notice is received by City that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to the City.

**NOTE: A Certificate of Insurance is not acceptable, in lieu of the additional insured and/or waiver of subrogation endorsements required above. The Certificate of Insurance must be accompanied by the additional insured and primary insurance endorsements.**