



Phoenix Convention Center  
USE AGREEMENT NO. «Contract\_ID»  
«Event\_Legal\_Name»  
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**USE AGREEMENT NO.**  
**Event Name**

The City of Phoenix, Arizona, through the **Phoenix Convention Center Department ("PCCD")**, as **Licensor**, grants to **XYZ**, as **Licensee**, the right to use the premises ("Licensed Premises") described in Exhibit A, on the terms in this Use Agreement entered into on this **date**. The Licensed Premises must be used for no other purpose without the prior written consent of Licensor. The Schedule of Events also sets forth the time period for which Licensee has the right to use the Licensed Premises, the related charges, and the provisions for the cancellation of this agreement.

1. **ACCESS.** Licensee will have a general right of access to the Licensed Premises through the halls and corridors not covered by its license as necessary. Licensee acquires no rights of occupancy or other use of the halls and corridors, or to any other space that is not specified in Exhibit A.
2. **CONFLICT OF INTEREST.** This Use Agreement is subject to cancellation by the City pursuant to Section 38-511, Arizona Revised Statutes.
3. **NOTICE.**
  - a) Any notice, or other communication ("Notice") in this Use Agreement must be in writing and either delivered in person, sent by electronic mail, facsimile, deposited in the United States mail, postage prepaid, registered or certified mail, return receipt requested, or deposited with any commercial air courier or express service addressed as follows:
    - i) If intended for Licensee:  
  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Telephone: (    ) \_\_\_\_\_  
FAX: (    ) \_\_\_\_\_
    - ii) If intended for Licensor:  
Phoenix Convention Center  
100 N. 3<sup>rd</sup> Street  
Phoenix, Arizona 85004  
Telephone: (602) 262-6225  
FAX: (602) 495-3642
  - b) Notice will be deemed received at the time it is personally served or, on the day it is sent by electronic mail or facsimile, on the second day after its deposit with any commercial air courier or express service, or 10 days after the notice is deposited in the United States mail. Any applicable time periods will be computed from the time the notice is deemed received. Either party may change any of its contact information by notifying the other party as provided above.
4. **GOVERNING LAW.** This Use Agreement will be governed by Arizona law. Any litigation must be brought only in, and both parties consent to the jurisdiction of, state or federal courts of Arizona.



**5. RULES AND REGULATIONS.**

- a) Licensee will pay the prevailing rates established for labor, services and equipment contracted to support its event, and will otherwise adhere to the Facility Guide policies and procedures in effect at the time of the execution of this Use Agreement. A copy of the Facility Guide is attached as Exhibit C.
- b) Space usage includes those portions of the Phoenix Convention Center specified in Exhibit A and non-exclusive use of adjacent common public lobby areas, general house lighting, reasonable heating or air conditioning, and any specified services or equipment.
- c) Licensee is required to furnish in writing, 30 days prior to first move-in day of Licensee's event, any information requested by PCCD. Failure to provide such information when required may result in additional fees assessed by the Licensor.
- d) Deposits and payments are non-refundable except when Licensor is unable to deliver possession of the facilities as contractually specified.
- e) If Licensee exceeds the move-out time defined in this Use Agreement, prevailing hourly overtime fees will apply. Usage of facility space solely on an overtime basis is not allowed. If excessive extension of time beyond the contracted move-out time is anticipated, the Licensor reserves the right to remove and store the Licensee's property, at Licensee's sole expense, risk and liability, from the facility space to insure Licensor's other contractual space commitments are satisfied.

**6. EXCLUSIVE CONTRACTUAL SERVICES.** The Director reserves the following exclusive concession rights for the Phoenix Convention Center, Symphony Hall and Orpheum Theatre, and to insure quality delivery of service and revenue generation: food and beverage concessions (fixed and portable stands), catering services, parking, ticket office, exhibit utility services, telephone, internet, rigging, event security services, ushering services and automated teller machine services. Resale of exclusive services by the Licensee or its agent(s) is prohibited, unless resale of such services enhances service delivery and revenue to the PCCD as determined by the Director.

**7. INSURANCE.** Licensee and all subcontractors must procure and maintain for the duration of this Use Agreement, insurance against claims for injury to persons or damage to property which may arise from or in connection with this Use Agreement.

The insurance requirements herein are minimum requirements for this Use Agreement and in no way limit the indemnity covenants contained in this Use Agreement. The City in no way warrants that the minimum limits contained herein are sufficient to protect the Licensee from liabilities that might arise out of this Use Agreement. Licensee is free to purchase additional insurance as Licensee determines necessary.

**a) Minimum Scope and Limits of Insurance:** Licensee must provide coverage with limits of liability not less than those stated below. An excess liability policy or umbrella liability policy may be used to meet the minimum liability requirements provided that the coverage is written on a "following form" basis.

**Commercial General Liability – Occurrence Form**

Policy must include bodily injury, property damage and contractual liability coverage.

- |   |             |
|---|-------------|
| • General Aggregate                         | \$2,000,000 |
| • Products – Completed Operations Aggregate | \$1,000,000 |
| • Personal and Advertising Injury           | \$1,000,000 |
| • Each Occurrence                           | \$1,000,000 |
| • Fire Damage (Damage to Premises)          | \$ 100,000  |

The policy must be endorsed to include the following additional insured language: **"The City of**



Phoenix shall be named as an additional insured with respect to liability arising out of the use and/or occupancy of the property subject to this Use Agreement.”

**Automobile Liability**

Required when vehicles or mobile equipment are used as part of the event, or are associated with move-in or move-out, utilizing the loading dock and/or freight elevators.

Combined Single Limit (CSL)

\$1,000,000

The policy must be endorsed to include the following additional insured language: “The City of Phoenix shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Licensee, including automobiles owned, leased, hired or borrowed by the Licensee.”

- b) **Additional Insurance Requirements:** The policies must include, or be endorsed to include, the following provisions:

On insurance policies where the City of Phoenix is named as an additional insured, the City of Phoenix will be an additional insured to the full limits of liability purchased by the Licensee even if those limits of liability are in excess of those required by this Use Agreement.

The Licensee’s insurance coverage will be primary insurance and non-contributory with respect to all other available sources.

- c) **Notice of Cancellation:** For each insurance policy required by the insurance provisions of this Use Agreement the Licensee must provide to the City, within two (2) business days of receipt, a notice if a policy is suspended, voided, or canceled for any reason. Such notice shall be mailed, emailed, hand-delivered or sent by facsimile transmission to: **Phoenix Convention Center, Attention Event Manager.**

- d) **Acceptability of Insurers:** Insurance is to be placed with insurers duly licensed or approved unlicensed companies in the state of Arizona and with an “A.M. Best” rating of not less than B+ VI. The Licensor in no way warrants that the above-required minimum insurer rating is sufficient to protect the Licensee from potential insurer insolvency.

- e) **Verification of Coverage:** Licensee will furnish the Licensor with certificates of insurance (ACORD form or equivalent approved by the Licensor) as required by the Use Agreement. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and endorsements are to be received and approved by the Licensor before the Use Agreement commences. Each insurance policy required by this Use Agreement must be in effect at or prior to commencement of this Use Agreement and remain in effect for the duration of the Use Agreement. Failure to maintain the insurance policies as required by this Use Agreement or to provide evidence of renewal is a material breach of contract.

All certificates required by this Use Agreement must be sent directly to the **Phoenix Convention Center Department, Attention Event Manager, 100 N. 3<sup>rd</sup> Street, Phoenix, AZ 85004.** The City Department, Use Agreement number and location description are to be noted on the certificate of insurance. The Licensor reserves the right to require complete, certified copies of all insurance policies and endorsements required by this Use Agreement at any time. **DO NOT SEND CERTIFICATES OF INSURANCE TO THE CITY’S RISK MANAGEMENT DIVISION.**

- f) **Subcontractors:** Licensee’s certificate(s) must include all subcontractors as additional insureds under its policies. All coverage for subcontractors is subject to the minimum requirements identified above.



**8. DAMAGE TO BUILDINGS AND CONTENTS.**

- a) Licensee will compensate PCCD the full amount of any damage to the buildings, furnishings, fixtures or equipment, caused by the Licensee, Licensee's exhibitors, guests or contractors, except for ordinary wear and tear. At Licensee's request, Licensee and/or its service contractor, and PCCD will conduct a joint inspection of the facility prior to move-in for the purpose of noting existing damage, if any. At the conclusion of the event, the Licensee and/or its service contractor will, together with the PCCD, jointly inspect the facility for event-related damage. Failure of Licensee or its service contractor to participate in such inspection will be considered a waiver of Licensee's right to participate and PCCD alone will make the inspection. The PCCD will notify Licensee within a reasonable time as to the extent of damage and cost of repair.
- b) No decorative or other materials may be attached to any part of the building so as to damage the building. All decorative or other materials must be of a noncombustible type or be suitably treated with a flame retardant approved by the Licensor. No person may bring, exhibit or set off fireworks or explosives on the Premises without the prior written consent of the Director and a permit from the City of Phoenix Fire Department. Damages to the Premises will be repaired at the sole cost and expense of the Licensee. Users may be required to make suitable arrangements with the Director for the protection of the Licensor.

**9. INDEMNITY.** Licensee shall indemnify, defend, save and hold harmless the City of Phoenix and its officers, agents, contractors, volunteers, and employees (hereinafter referred to as "City") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Licensee or any of its owners, officers, directors, agents, employees or contractors, arising out of or related to Licensee's occupancy and use of the Licensed Premises. It is the specific intention of the parties that the City shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the City, be indemnified by Licensee from and against any and all claims. It is agreed that the Licensee will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. In consideration for the use and occupancy of the Licensed Premises, the Licensee agrees to waive all rights of subrogation against the City its officers, officials, agents and employees for losses arising from the use, occupancy or condition of the Licensed Premises.

**10. ASSIGNABILITY, SUBLICENSE.** Licensee may not assign or sublicense the Licensed Premises, any part thereof, or any area therein or any rights under this Use Agreement, except to exhibitors as contemplated by this Use Agreement.

**11. CONDITION OF LICENSED PREMISES.** Management will provide the Premises in a clean, habitable condition and in the basic configuration for which Licensee has contracted. In the event Licensee finds it necessary to remove or change the location of any stage, rigging or equipment, such changes will be made at Licensee's expense; and Licensee must change all equipment, stages and rigging back to the condition in which it was found. Licensee may not make any permanent changes or alterations without the prior written approval of the Director. At the termination of this Use Agreement, Licensee must at once surrender possession of the Premises with all of the Licensee's exhibitors' and Licensee's contractors' equipment and materials removed.

**12. OBJECTIONABLE USES OR PERSONS.** Any use of the Phoenix Convention Center and Venues that is contrary to public policy, or not in the best interests of the City of Phoenix, or is illegal will be a violation of this Use Agreement and will be grounds for immediate revocation of this Use Agreement. Any person(s) whose conduct is disorderly or disruptive to the use of the facilities, or is illegal, may be



refused entrance or may be immediately ejected. The Licensee will hold the Licensor harmless from any claim resulting from such action.

13. **CONTROL OF PREMISES.** All facilities will at all times be under the control of PCCD and the Director who reserve the right to designate individuals who may enter the Licensed Premises at any time.
14. **UNAVAILABILITY OF PREMISES.** If any portion of the Licensed Premises is unavailable for occupancy at the commencement, or during the term, of this Use Agreement, due to fire, casualty, acts of God, strikes, national emergency or other cause beyond the control of Licensor, this Use Agreement and the related obligations of Licensor and Licensee will terminate, and Licensee waives any claim against Licensor for damages by reason of such termination; provided, however, that any unearned portion of the fees due will abate, or, if previously paid, will be promptly refunded to Licensee no later than 30 days following the termination of this Use Agreement by Licensor.
15. **LIABILITY FOR LICENSEE'S PROPERTY.** The Licensor, its officials, agents, employees, or contractors will not be liable for any loss, damage or injury to properties of any kind that are shipped to, delivered to, received by, or handled by the Licensor, its officials, agents, employees, or contractors or stored in or on the Licensed Premises. Properties may not be received until Licensee has made proper arrangements for receiving, handling and storage of such materials.
16. **PERMITS, LICENSES AND TAXES.**
  - a) The Licensee is responsible for obtaining any additional applicable permits and licenses required by Federal, State, County, or City law, and will permit inspection by appropriate government departments.
  - b) In the event the Licensee is subletting any licensed event space to exhibitors or other third parties, the City of Phoenix Tax Code requires that the Licensee pay a Privilege License tax on any income from such subletting of space. For complete information on the application required for the City of Phoenix Privilege License Tax, Licensee should contact the City of Phoenix tax division website at <http://phoenix.gov/PLT/licsvcs.html> or contact their office directly at 602-256-4368.
17. **OBSERVANCE OF LAW.** Licensee must comply with all applicable federal, state and local laws and ordinances, and also any rules for the facilities under the control of Licensor. Violations by Licensee may result in cancellation of this Use Agreement and discontinuance of Licensee's use of the facilities unless satisfactory compliance is assured. The Director will provide notice regarding any part of Licensee's program of which he is aware that would violate any laws, ordinances and rules.
18. **INTELLECTUAL PROPERTY.** Licensee accepts total responsibility for the use of any composition, work or other material covered by copyright, trademark, patent or other intellectual property rights and will indemnify, defend, save and hold harmless the City, its officers, agents, volunteers, contractors, and employees from all suits, actions, losses, damages, expenses, costs or claims of any nature arising or alleged to have arisen from Licensee's use of any material subject to intellectual property rights.
19. **SOLICITATIONS.** No collections or donations, whether for charity or otherwise, may be made, attempted or announced on the Licensed Premises without prior written approval of the Director unless the collection or donation is a freewill offering in conjunction with a religious service.
20. **ADDITIONAL OR UNSPECIFIED ITEMS.** Licensor reserves the right to impose any additional rules, special equipment use and facility use arrangements, which may be necessary for the best interests of Licensor in the operation of the Phoenix Convention Center and facilities.
21. **ALTERNATIVE DISPUTE RESOLUTION/ARBITRATION.** The Parties agree to first try to settle any claim or dispute arising out of this Use Agreement through negotiation. If negotiation does not result in a



settlement, then the parties agree to try, in good faith, to settle any claim or dispute through non-binding mediation. Any mediation will be administered by the American Arbitration Association (“AAA”) in Phoenix under its Commercial Mediation Rules, and the parties will share the related costs equally. If mediation does not result in a settlement, then the parties agree to binding arbitration in Phoenix under the Federal Arbitration Act as administered by the AAA under its then current Commercial Arbitration Rules, and judgment on the award may be entered in any court having jurisdiction.

22. **DEFAULT.** If Licensee fails to perform any of its obligations, Licensor may give Licensee notice of default that will provide a reasonable time to cure or remedy the default. If the default is not remedied to the satisfaction of Licensor within the time provided, then Licensee may be declared in default, and its contract rights may be immediately terminated. At the direction of Licensor, Licensee must promptly vacate the Licensed Premises and will have no further right to remain and will forfeit all rights to any money due or paid Licensor in the form of fees, deposits or insurance.
23. **SAFETY.** It is the responsibility of Licensee to familiarize exhibitors and employees with the safety procedures and regulations governing all parts of the facility used by Licensee. Licensee will instruct exhibitors and employees on the building evacuation plan in the event of fire or other disaster and formulate a specific plan to evacuate any person with a disability among them.
24. **DISCRIMINATION.** Licensee may not discriminate against any person, or directly or indirectly display, circulate, publicize or mail any advertisement, notice or communication which states or implies that any facility or service will be refused or restricted because of sex, race, color, religion, ancestry, national origin or disability or that any person, because of sex, race, color, religion, ancestry, national origin or disability would be unwelcome, objectionable, unacceptable, undesirable or not solicited.
25. **AMERICANS WITH DISABILITIES ACT (ADA).** Licensor warrants that Phoenix Convention Center and Venues, as places of “Public Accommodation,” comply with ADA facility requirements. Licensor will hold Licensee harmless from any ADA violations arising from the design and condition of the basic structures. Licensor can inform Licensee of organizations who can provide advice, auxiliary aids, and services required by the ADA. Licensee will comply with ADA requirements in its use of the Licensed Premises.
26. **SEVERABILITY.** If any provision of this Use Agreement is declared invalid or unenforceable, the remainder of the provisions will continue in full force and effect to the fullest extent permitted by law.
27. **OTHER EVENTS.** At the request of the Licensee, the Licensor will provide complete disclosure of contracted events in the facility over the same or overlapping dates of the Licensee’s event at the time of this Use Agreement negotiations and thereafter. Both Licensee and Licensor will endeavor to avoid the scheduling of events that may compete with other scheduled events or the best interest of the other party.
28. **EXHIBITS.** By signing this Use Agreement, Licensee acknowledges that it has received and read the following Exhibits which are attached to and made a part of this Use Agreement:
  - a) Exhibit A – Schedule of Events
  - b) Exhibit B – Additional Terms and Conditions
  - c) Exhibit C – PCCD Operational Policy and Procedures (Facility Guide)
29. **USE AGREEMENT CONTINGENCIES.** This Use Agreement is not binding until it has been signed by Licensee and sent to Licensor via electronic mail, facsimile transmission, U.S. mail, or hand delivered, and countersigned by the Director AND the required deposit is received. For security reasons, any sums received for this event will be immediately deposited. In the absence of the Director’s signature to this Use Agreement, the depositing of funds alone does not create a binding contract.



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**30. ORGANIZATIONAL EMPLOYMENT DISCLAIMER:** This agreement establishes only a license to use certain city-owned premises. It is for the mutual benefit of the parties and not for the benefit of any other person or entity. This agreement does not establish any relationship of agency, employment, or independent contractor to the City.

It is understood that this Use Agreement is contingent upon the successful negotiation and signature of a headquarter hotel contract with a hotel in downtown City of Phoenix.

In consideration of the foregoing, this Use Agreement has been processed in Phoenix, Arizona, on this **date** on behalf of **Phoenix Convention Center Department**.

XYZ (Licensee)

City of Phoenix (Licensor)

By: \_\_\_\_\_  
c/o

By: \_\_\_\_\_  
John M. Chan  
Director  
Phoenix Convention Center

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Date Contract Executed

Sales Manager: \_\_\_\_\_

Reviewed by:   x   \_\_\_\_\_

