**AGREEMENT BETWEEN SMG AND THE UNIVERSITY OF TENNESSEE**

**FOR USE OF THE KNOXVILLE CONVENTION CENTER**

**THIS LICENSE AGREEMENT** (together with the Exhibits attached hereto, the “**Agreement**”) is dated as of the **[Day]** day of **[Month]**, **[Year]**, by and between **SMG**, a foreign general partnership registered in Tennessee and organized and existing under the laws of the State of Pennsylvania with its principal office at 1300 Conshohocken State Road, Suite 450 in West Conshohocken, Pennsylvania, 19428 (**“SMG,”** which term shall include its successors and assigns), and The University of Tennessee, an instrumentality of the State of Tennessee (the “University,” which term shall include its successors and assigns).

**WITNESSETH:**

 SMG is a party to a certain management agreement with the City of Knoxville (the “Owner”), known as City of Knoxville Contract No. C-07-0076 (the “Management Agreement”), whereby SMG has been retained to act as Owner’s managing agent in respect to a facility commonly known as the Knoxville Convention Center, located at 701 Henley Street, which is owned by the City of Knoxville (“Facility”). University desires to use all or a portion of the Facility, as set forth below, for the purposes stated herein. Pursuant to the Management Agreement, SMG has the express authority to enter into agreements on Owner’s behalf relating to the use of the Facility. Accordingly, SMG, as agent for Owner, desires to grant to University, and University hereby accepts from SMG, a license to use certain areas of the Facility in accordance with the terms and conditions set forth herein.

 **NOW, THEREFORE,** in consideration of the foregoing and the mutual promises, covenants, and agreements herein contained, the parties hereto, intending to be legally bound, hereby agree as follows:

**Article 1. Use of the Facility AND FEES.**

1. **Generally.** The Rented Premises is to be used solely for the purpose of **[Name or Description of Athletic, or Other Event].** University shall not use the Leased Premises or Facility, or permit the Rented Premises or Facility to be used by any of its officers, directors, agents, employees, licensees, or invitees, for any purpose not indicated by this Agreement, or for any unlawful purpose, or in any manner so as to injure persons or property in, on, or near the Facility.
2. **Leased Premises and Term:** SMG hereby grants University, upon the terms and conditions hereinafter expressed, a license to use those areas of the Facility described on Exhibit A attached hereto (the “Authorized Areas”), including all improvements, furniture, fixtures, easements, rights of ingress and egress, and appurtenances thereto, during the dates and times set forth on Exhibit A (each such date and time, an “Event”). It is expressly understood by the parties hereto that the Facility shall be vacated by University and all persons participating in or attending an Event hereunder on or prior to the end-time of the last Event listed on Exhibit A hereto (the “Expiration Time”) and, as such, University shall arrange to have all Events and activities related thereto cease within a reasonable time prior to the Expiration Time to allow ample time for the Facility to be completely vacated on or prior to the Expiration Time.
	1. **SMG Rules.** University shall abide by and conform to all rules and regulations adopted or prescribed by SMG pursuant to a certain operating handbook titled “Event Guide” dated 12/16/2015, a copy of which has been provided to University and the terms of which are incorporated by reference herein. To the extent allowed by the laws of the State of Tennessee, all provisions of SMG’s “Event Guide” dated 12/16/2015 are incorporated into this agreement by reference. If the terms of the Event Guide conflict with this Agreement, the terms of this Agreement shall prevail. Furthermore, University shall conduct business in the Facility in a dignified and orderly manner with full regard for public safety and in conformity with SMG’s rules and regulations, including fire and safety rules as required by SMG or local fire regulations, as such may exist from time to time. Without limiting the foregoing, University shall obtain prior written approval from SMG’s General Manager at the Facility for any pyrotechnic displays which University anticipates may be performed at the Facility during the term of this Agreement. University agrees that it will not allow any officer, agent, employee, licensee or invitee at, in or about the Facility who shall, upon reasonable grounds, be objected to by SMG and such person’s right to use the Facility may be revoked immediately by SMG.
	2. **Rental Fee.** The total nonrefundable space rental rate is ${0.00} based on {SPACE} at a daily rate of ${0.00} for {NUMBER} days. The daily rate for move in and move out days will be half (50%) of the daily use rental rate. The total space rental rate of ${0.00} is based on:

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  |  |  | /day | = | $ |  |
|  |  |  | /day | = | $ |  |
|  |  |  | /day | = | $ |  |
|  |  |  | /day | = | $ |  |
| TOTAL | $ |  |

* 1. **Services and Equipment Included.** SMG shall furnish, without cost to University, normal janitorial service in public areas, air conditioning during event hours, worklights (50% power) during move-in and move-out; and full house lights during event hours. A complete description of services, rentals, and assigned costs is set forth in the Event Guide. Each Meeting Room and Section of the Ballroom in KCC will include the following at no charge: 2 Clothed and skirted 6’ or 8’ tables; 1 Lectern, table-top or free-standing; Riser section, skirted; 1 Electrical outlet, 5 amp; and all tables and chairs for classroom, theater, or banquet use. University shall not operate any equipment or materials belonging to SMG without the prior written approval of SMG. Estimated additional equipment and services will be provided and charged as follows:

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  |  |  | each | = | $ |  |
|  |  |  | each | = | $ |  |
|  |  |  | each | = | $ |  |
| TOTAL | $ |  |

* 1. **Other Portions of Facility and Access to Facility.** SMG may use any portion of the Facility other than the Leased Premises for other events and shall not be responsible for the actions of any other user of the building. The General Manager or his or her representative shall have available to at all times total and complete access to all portions of the Facility, including the Leased Premises. University shall supply to the General Manager, or his or her representative, a key or keys to any and all parts of the Leased Premises that University desires to secure under lock, such keys and locks to be provided for and installed and removed at the sole expense of University, subject to immediate removal upon termination of this Agreement, or otherwise in the reasonable discretion of the General Manager. In the event the General Manager determines it to be necessary to remove any locks which have been installed by University, after notice to University and reasonable opportunity for University to remove the locks, except in the case of an emergency, the General Manager may order such removal, the cost of which shall be borne by University, to the extent allowed under Tennessee law.
	2. **Floor Plans, Descriptions, and Set-Up.**

a. *Floor Plans.* At least sixty (60) calendar days prior to the first Event day, University shall provide to SMG, for SMG or the City of Knoxville’s approval, as may be appropriate, five (5) copies of a full and complete floor plan for the Event. Based upon a review by SMG or City of Knoxville of the foregoing plan, SMG may request by written notice within ten (10) business days after receiving the materials, that University make such changes, deletions, or additions as SMG may, in its reasonable discretion, deems necessary or desirable. If the University fails to make any such reasonable changes, deletions, or additions within seven (7) calendar days after receipt of written notice thereof, SMG shall be entitled to terminate this Agreement.

1. *Set-up Description.* In addition to the floor plan delivered under Section 1.6.a. above, at least sixty (60) days prior to the first Event, University shall provide to SMG, for SMG’s review (and/or the review of any consultant or representative engaged by SMG), five (5) copies of a full and complete description of all set-up (including, without limitation, any staging, lighting, video boards, and/or rigging from or to the physical structure of the Facility or any fixture thereto required for the Event), electrical, communications systems, and plumbing work anticipated to be needed for the Event. Based upon a review by SMG or City of Knoxville of the foregoing plan, SMG may request by written notice within ten (10) business days after receiving the materials, that University make such changes, deletions, or additions as SMG may, in its reasonable discretion, deems necessary or desirable. If the University fails to make any such reasonable changes, deletions, or additions within seven (7) calendar days after receipt of written notice thereof, SMG shall be entitled to terminate this Agreement.
	1. **Novelties, Concessions, Food, and Beverage.**  SMG is the exclusive food and beverage provider for the Facility. SMG reserves the exclusive right to sell or give away food, beverages, novelties, audio/visual tapes or CDs and other articles, and to control all media activity, including broadcasting, recording, transcription rights and equipment and other privileges. University shall not sell or distribute any of the aforesaid articles or control the aforesaid activities without the express written consent of SMG. No food or beverage may be brought into or taken off of the Facility without prior written approval of SMG. Excess prepared food may be donated to charity at SMG’s sole discretion. Sampling or distribution of food or beverage must be approved by SMG a minimum of two weeks prior to any function and may require a temporary health permit from the City of Knoxville or Knox County.
	2. **Catering.**
2. *Banquet Event Order.* Based on attendance of {NUMBER} people, Food and Beverage charges have been estimated at ${0.00}, subject to a 21% service fee. A Banquet Event Order (B.E.O.) will be prepared, signed by the University, and incorporated in this license agreement at a later date.
3. *Attendance Guarantees.* University shall advise SMG of a guaranteed attendance number no later than 3 business days prior to the date of the function (a business day is defined as Monday-Friday by 12 noon). If the guaranteed number is not specified on time, the number specified on the B.E.O. will be the guaranteed attendance. The guaranteed attendance may not be reduced after the 3-day deadline. Increases in attendance given after the final guarantee deadline may be subject to additional charges. The Catering Department cannot guarantee that such additional guests will be served. The Catering Department will prepare food for seated functions sufficient to serve 5% more than the guaranteed attendance, to a maximum of 30 people. Additional seating will be placed only if needed.
4. *Food and Beverage Credits.* A food and beverage credit will be issued toward {SPACE} rental in which the catered food and beverage event has occurred, based on the following calculation. These potential credits will be calculated upon completion of the Food & Beverage event, based on the guarantees of each function against the daily space rental. Move-in and move-out days are not included in the Food and Beverage credit. The credit will be applied on the post event settlement.

|  |  |  |
| --- | --- | --- |
| Food & Beverage Standard Revenue is |  | % Off Net Space Rental |
| 2x higher than space rental | = | 50% off |
| 3x higher than space rental | = | 75% off |
| 4x higher than space rental | = | 100% off |
| (Excluding gratuity) |  |  |

* 1. **Third Party Contractors.** University acknowledges that, in connection with SMG’s management and operation of the Facility, SMG utilizes the services of certain third-party independent contractors (the “Third-Party Contractors”). University hereby agrees that SMG shall not be responsible in any way for the acts and/or omissions of any one or all of the Third-Party Contractors.

**Article 2. Condition of Facility.**

1. **As-Is Condition.** University acknowledges that University has inspected the Facility and the Leased Premises and that University is satisfied with and has accepted the Facility and Leased Premises in its present condition.
2. **Maintenance.** SMG shall have the continuing obligation and responsibility to maintain and keep the Facility in good order and repair, normal wear and tear excepted; provided, however, that the failure by SMG to accomplish the foregoing, said failure resulting from circumstances beyond the control of SMG, shall not be considered a breach of this Agreement by SMG.
3. **Alterations.** University shall not make any alterations or improvements to the Leased Premises or Facility without the prior written consent of SMG. Any alterations or improvements of whatever nature made or placed by University to or on the Leased Premises or Facility, except movable trade fixtures, shall, at the option of SMG, (i) be removed by University, at University’s expense, immediately upon the conclusion of the Event, or (ii) become the property of SMG or the City of Knoxville.SMG may, at its election, accept delivery of property addressed to University only as a service to University. SMG and Owner assume no responsibility whatsoever for any property placed in the Facility.

**ARTICLE 3. PAYMENTS.**

1. **Payment.** University will pay SMG within 45 days of receipt of the final invoice by ACH, ePayables, or University check.
2. **Late Charges.** If University fails to pay any amounts when due under this Agreement, any interest on the unpaid balance will not exceed the rate allowable under the Tennessee Prompt Pay Act, Tenn. Code Ann. §§ 12-4-701, *et. seq*., which is currently 1.5% per month.
3. **Liquidated Damages**. To the extent allowed by the laws of the State of Tennessee, if University cancels any event or significantly reduces the space reservation covered by this agreement, University agrees to pay to SMG the following amounts as liquidated damages and not as a penalty, and the parties agree that such amounts constitute reasonable provision for liquidated damages:
	1. If University cancels more than one year before the first scheduled day of the event, 25% of space rental rate shall be payable to SMG as liquidated damages.
	2. If University cancels more than 6 months before the first scheduled day of the event, 50% of space rental rate shall be payable to SMG as liquidated damages.
	3. If University cancels less than 6 months before the first scheduled day of the event, or enters into any default as described in Paragraph 15, 70% of space rental rate shall be payable to SMG as liquidated damages.

In the event University cancels any event or significantly reduces the space reservation covered in this agreement, SMG will make a reasonable attempt to re-sell space. The amount of liquidated damages will be reduced to the extent that SMG re-sells space.

1. **Responsibility for Other Costs.** SMG shall retain one hundred percent (100%) of all revenues generated in connection with parking lot fees and the sale of food and beverages at the Facility. In addition to payment of fees above, University shall bear all expenses incurred by University in connection with the holding of an Event at the Facility, including, but not limited to, all costs arising from the use of patented, trademarked or copyrighted materials, equipment, devices, processes or dramatic rights used on or incorporated in the conduct of an Event.

**Article 4. Records, Reports, and Audits.**

1. **Records.** University shall maintain accurate books and records with respect to its activities at the Facility, including, but not limited to, the costs and revenues of each Event. University shall keep and preserve such books and records at all times during the term of this Agreement in accordance with University fiscal policy and state law.
2. **Reports.** No later than **[Amount of Days Written Out]** (**[Amount of Days in Numbers]**)days after the date of a revenue-generating Event, University shall deliver to SMG a detailed written notice of the amounts claimed to be due to SMG pursuant to this Agreement (each a “**Statement**”). Each Statement shall detail (i) with respect to ticket sales, all tickets sold and all amounts collected by University, with all deductions (sales tax, etc.) therefrom, (ii) with respect to novelty and merchandizing revenue, all items sold and all amounts collected by University, with all deductions (sales tax, etc.) therefrom, and (iii) with respect to broadcast revenues, a detail of all broadcast revenues collected by University, with all deductions (sales tax, etc.) therefrom. Statements shall be deemed incontestable unless objected to by SMG, in writing, specifying the nature of and reasons for such objection, within twelve (12) months after receipt by SMG.
3. **Audits.** University shall give SMG and its representatives access to the books and records that University maintains pursuant to this Section upon reasonable written notice when so requested by SMG. University shall also provide, at University’s own expense, a copy of any such book or record upon request. To the extent that any Statement prepared by University is contested, SMG shall have the right to cause nationally recognized independent auditors to audit all of the books and records of University relating to such Statement. Any liability of University arising from an audit hereunder will be governed by the Tennessee Claims Commission Act, Tenn. Code Ann. §§ 9-8-301 et seq.

**Article 5. Taxes.**

SMG shall not be liable for the payment of taxes, late charges, or penalties of any nature relating to any Event or any revenue received by, or payments made to, University in respect of any Event, except as otherwise provided by law. To the extent allowed or required by Tennessee law, University shall pay and discharge as they become due, promptly and before delinquency, all applicable taxes, assessments, rates, damages, license fees, municipal liens, levies, excises, or imposts, whether general or special, or ordinary or extraordinary, of every name, nature, and kind whatsoever, including all governmental charges of whatsoever name, nature, or kind, which may be levied, assessed, charged, or imposed, or which may become a lien or charge against this Agreement or any other improvements now or hereafter owned by University.

**ARTICLE 6. Liability, insurance, and indemnification.**

1. **Insurance.** University is self-insured under the Tennessee Claims Commission Act, Tenn. Code Ann. §§ 9-8-301 et seq., which covers certain tort liability for actual damages of up to $300,000 per claimant and $1,000,000 per occurrence. The failure of University to maintain its self-insured retention in accordance with this Article shall be a breach of this Agreement and, notwithstanding any cure period provided in this Agreement, shall preclude the Event from taking place.
2. **Insurance of Subcontractors**. Any subcontractor of the University shall at its sole expense obtain and maintain in full force and effect for the duration of the Agreement and any extension hereof at least the following types and amounts of insurance for claims which may arise from or in connection with this Agreement.
3. ***Commercial General and Umbrella Liability Insurance***; occurrence version commercial general liability insurance, and if necessary umbrella liability insurance, with a limit of not less than $2,000,000 each occurrence for bodily injury, personal injury, property damage, and products and completed operations. If such insurance contains a general aggregate limit, it shall apply separately to the work/location in this Agreement or be no less than $3,000,000.
4. ***Automobile Liability Insurance****;* including vehicles owned, hired, and non-owned, with a combined single limit of not less than $1,000,000 each accident. Such insurance shall include coverage for loading and unloading hazards
5. ***Workers’ Compensation Insurance****.* To the extent applicable,subcontractors shall maintain workers’ compensation insurance with statutory limits as required by the State of Tennessee or other applicable laws and employers’ liability insurance with limits of not less than $500,000.
	1. **Liability.** Any liability of University to SMG and third parties for claims, damages, losses, or costs arising out of or related to acts or omissions of University or its employees under this Agreement will be governed by the Tennessee Claims Commission Act, Tenn. Code Ann. §§ 9-8-301, *et. seq*.

**6.4. Intentionally omitted.**

* 1. **City Not Liable.** To the extent allowed by the laws of the State of Tennessee, University agrees that neither the City nor any of its officers, agents, contractors, or employees shall have any liability to University arising from any breach of this agreement or from or out of the occupancy or use by University, its agents, servants, employees, contractors, patrons, guests, licensees, or invitees of the Premises. University waives any such claims against the City, and their officers, agents, contractors and employees, and agrees that University's sole recourse on any such claim shall be against SMG as manager of the facility. The parties agree that the City is not, and will not be deemed, a third-party beneficiary of this Agreement.

**Article 7. Default, Termination and Other Remedies.**

1. **Default by University.** University shall be in default under this Agreement if any of the following occur:
	1. University fails to pay any amount due hereunder (including, without limitation, the University Fee or the Reimbursable Service Expenses) when the same are required to be paid hereunder;
	2. University or any of its officers, directors, or employees fails to perform or fulfill any other term, covenant, or condition contained in this Agreement and University fails to commence a cure thereof within five (5) business days after University has been served with written notice of such default;
	3. University makes a general assignment for the benefit of creditors; or
	4. University totally or partially abandons the Leased Premises.
2. **Default by SMG.** SMG shall be in default under this Agreement if SMG fails to perform or fulfill any term, covenant, or condition contained in this Agreement and SMG fails to commence a cure thereof within five (5) business days after SMG has been served with written notice of such default.
3. **Termination by Reason of Default.** Upon a default pursuant to this Section, the nonbreaching party may, at its option, upon written notice or demand upon the other party, cancel and terminate the license granted in Section 1 hereof and the obligations of the parties with respect thereto. In addition to the foregoing, if University fails to comply with any of the provisions of this Agreement, SMG may, in its sole discretion, delay and/or withhold payment and/or settlement of all accounts and funds related to monies collected or received by SMG for the benefit of University hereunder until the completion of an investigation relating to such violation. Nothing herein shall be construed as excusing either party from diligently commencing and pursuing a cure within a lesser time if reasonably possible. If the breach by University or any of its employees of such other term, covenant, or condition is such that it threatens the health, welfare, or safety of any person or property, then SMG may, in its discretion, require that such breach be cured in less than five (5) business days or immediately.
4. **Termination by Reason of Labor Dispute.** In addition to the remedies provided elsewhere in this Agreement, SMG shall have the right to terminate this Agreement in the event that a dispute occurs between University and its employees or between University and any union or group of employees by reason of the union affiliation or lack of union affiliation of persons employed by University or any one with whom University contracts.

**Article 8. Civil Rights Act.**

During the performance of this Agreement, University shall comply fully with Title VI and Title VII of the Civil Rights Act of 1964, as amended, and all other regulations promulgated thereunder, in addition to all applicable state and local ordinances concerning Civil Rights.

**Article 9. Americans With Disabilities Act**.

With respect to any Event at the Facility, University recognizes that it is subject to the provisions of Title III of the Americans With Disabilities Act, as amended, and all similar applicable state and local laws (collectively, the “ADA”). University represents that it has viewed or otherwise apprised itself of the access into the Facility, together with the common areas inside, and accepts such access, common areas, and other conditions of the Facility as adequate for University’s responsibilities under the ADA. University shall be responsible for ensuring that the Facility complies and continues to comply in all respects with the ADA, including accessibility, usability, and configuration insofar as University modifies, rearranges or sets up in the Facility in order to accommodate University’s usage. University shall be responsible for any violations of the ADA, including, without limitation, those that arise from University’s reconfiguration of the seating areas or modification of other portions of the Facility in order to accommodate University’s usage. University shall be responsible for providing auxiliary aids and services that are ancillary to its usage and for ensuring that the policies, practices, and procedures it applies in connection with an Event are in compliance with the ADA.

**Article 10. Use of Information**.

University hereby acknowledges and agrees that SMG shall have the right to disclose to recognized industry sources that track event activity information relating to any Event, including, without limitation, the identity of performers or other participants of the Event, attendance figures, and gross ticket revenue for the Event.

**Article 11. Construction of this Agreement**

1. **Choice of Law.** This Agreement shall be deemed to be made, governed by, and construed in accordance with the laws of the State of Tennessee, without giving effect to the conflict of law principles thereof.
2. **Paragraph Headings.** The paragraph headings are inserted herein only as a matter of convenience and for reference and in no way are intended to be a part of this Agreement or to define, limit, or describe the scope or intent of this Agreement or the particular paragraphs hereof to which they refer.

**11.3. Entire Agreement; Amendments.** This Agreement (including all Exhibits and other documents and matters annexed hereto or made a part hereof by reference) contains all of the representations, warranties, covenants, agreements, terms, provisions, and conditions relating to the rights and obligations of SMG and University with respect to the Facility and the Event. No alterations, amendments, or modifications hereof shall be valid unless executed by an instrument in writing by authorized officials of the parties hereto. The Office of the Treasurer maintains an accurate and comprehensive list of all authorized officials here: http://treasurer.tennessee.edu/contracts/contractsignature.html **Without limiting the generality of the foregoing, it is expressly understood and agreed by the parties hereto that no officer, director, employee, agent, representative, or sales person of either party hereto, or of the Owner or any third party has the authority to make, has made, or will be deemed to have made, any representation, warranty, covenant, agreement, guarantee, or promise with respect to the financial success or performance, and/or other success, of the Event. The University hereby acknowledges and agrees that any assessment of the financial success or performance, and/or other success, of the Event is solely that of the University’s own determination and judgment**.

* 1. **Severability.** If any provision or a portion of any provision of this Agreement is held to be unenforceable or invalid by a court of competent jurisdiction, the validity and enforceability of the enforceable portion of any such provision and/or the remaining provisions shall not be affected thereby.
	2. **Time.** Time is of the essence hereof, and every term, covenant, and condition shall be deemed to be of the essence hereof.
	3. **Successors.** This Agreement shall be binding upon, and shall inure to, the benefit of the successors and assigns of SMG, and to such successors and assigns of University as are permitted to succeed to the University’s right upon and subject to the terms hereof.
	4. **Independent Contractor; No Partnership**. SMG and University shall each be and remain an independent contractor with respect to all rights and obligations arising under this Agreement. Nothing herein contained shall make, or be construed to make, SMG or University a partner of one another, nor shall this Agreement be construed to create a partnership or joint venture between and of the parties hereto or referred to herein. Moreover, the University it nor its employees shall be considered employees, partners or agents of the City, nor shall it or its employees be entitled to any benefits, insurance, pension, or workers’ compensation as an employee of the City.
	5. **Singular and Plural.** Whenever the context shall so require, the singular shall include the plural, and the plural shall include the singular.

**Article 12. Miscellaneous.**

1. **Waiver.** The failure of any party to enforce any of the provisions of this Agreement, or any rights with respect hereto, or the failure to exercise any election provided for herein, will in no way be considered a waiver of such provisions, rights, or elections, or in any way affect the validity of this Agreement. The failure of any party to enforce any of such provisions, rights, or elections will not prejudice such party from later enforcing or exercising the same or any other provisions, rights, or elections which it may have under this Agreement.
2. **Assignment.** Neither this Agreement nor any of the rights or obligations hereunder may be assigned or transferred in any manner whatsoever by University without the prior written consent of SMG. SMG shall be entitled to assign its rights and obligations hereunder to Owner or to any other management company retained by Owner to manage the Facility, and in such event, SMG shall have no further liability to University hereunder for the performance of any obligations or duties arising after the date of such assignment.
3. **Notices.** Any notice, consent, or other communication given pursuant to this Agreement shall be in writing and shall be effective either (i) when delivered personally to the party for whom intended, (ii) upon delivery by an overnight courier services that is generally recognized as reliable, and the written records maintained by the courier shall be prima facie evidence of delivery, or (iii) on delivery (or attempted delivery) by certified or registered mail, return receipt requested, postage prepaid, as of the date shown by the return receipt; in any case addressed to such party as set forth below or as a party may designate by written notice given to the other party in accordance herewith.

 If to SMG: SMG

 701 Henley Street,

Knoxville, TN 37902

Attention: General Manager

 with a copy to: SMG

 300 Conshohocken State Rd., Suite 770
 West Conshohocken, PA 19428

 Attention: Director of Risk Management

 If to University: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

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

 Attention:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. **Non-Exclusive Use.** SMG shall have the right, in its sole discretion, to use or permit the use of any portion of the Facility other than the Authorized Areas to any person, firm or other entity regardless of the nature of the use of such other space.
2. **Force Majeure.** If the Facility is damaged from any cause whatsoever or if any other casualty or unforeseeable cause beyond the control of SMG, including, without limitation, acts of God, fires, floods, epidemics, quarantine restrictions, terrorist acts, strikes, labor disputes, failure of public utilities, or unusually severe weather, prevents occupancy and use, or either, as granted in this Agreement, SMG is hereby released by University from any damage so caused thereby. Furthermore, SMG may extinguish all lights in the licensed premises, cease operation of the air conditioning system, terminate service of any other utilities upon the premises, order evacuation of all or any portion of the licensed premises, or cause to be removed therefrom any person or group or persons, any materials, equipment or other items if, in his judgment, circumstances of a dangerous or unusual nature have occurred, or he reasonably believes are about to occur, and such action is necessary to secure the safety and welfare of persons and/or property.
3. **Acts and Omissions of Third Parties.** SMG shall not be liable in any way for any acts and/or omissions of any third party to this Agreement, including, without limitation, any ticket agency used by SMG in connection with the sale of tickets for any Event.
4. **Illegal Immigrants.** In compliance with the requirements of Tenn. Code Ann. § 12-3-309, SMG hereby attests that it shall not knowingly utilize the services of an illegal immigrant in the United States in the performance of this Agreement and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the United States in the performance of this Agreement.
5. **Tax Registration.** SMG has registered with, or received an exemption from, the Tennessee Department of Revenue for the collection of Tennessee sales and use tax. This registration requirement is a material requirement of this agreement. SMG shall comply, and shall require any subcontractor to comply, with all laws and regulations governing the remittance of sales and use taxes on the sale of goods and services made by SMG, or SMG’s subcontractor.
	1. **Iran Divestment Act**. SMG certifies, under penalty of perjury, that to the best of its knowledge and belief SMG is not on the list created pursuant to Tenn. Code Ann. § 12-12-106. SMG further certifies that it shall not utilize any subcontractor that is on the list created pursuant to Tenn. Code Ann. § 12-12-106.
	2. **Delay of Possession:** If SMG is unable to tender possession of the Premises because of the unauthorized holding over of any tenant, delays in construction, or any other reason, SMG shall provide equivalent space of approximately the same dimensions and size or procure equivalent space of approximately the same dimensions, size, and quality at another venue at SMG’s expense. If the equivalent space of approximately the same dimensions, size, and quality cannot be provided or procured by SMG and the parties cannot agree on damages, the University may seek damages for breach of contract.
	3. **Copyright and Intellectual Property.** With respect to any Event at the Facility, University shall comply fully with any and all local, state, and federal laws, regulations, rules, constitutional provisions, common laws, and rights of others applicable to the reproduction, display, or performance of proprietary or copyrighted materials and works of third parties (the “**Works**”), and to the protection of the intellectual property rights associated with such Works. The fees payable by University under this Agreement do not include royalty, copyright or other payments which may be payable on behalf of third party owners of such Works, and University agrees hereby to make any and all such payments to third parties and/or clearinghouse agencies as may be necessary to lawfully perform, publish, display or reproduce any such Works. University specifically agrees, undertakes, and assumes the responsibility to make any and all reports to such agencies and/or parties, including specifically by way of example only (and not by way of limitation) ASCAP, BMI, SAG, SESAC, Copyright Clearance Center, and other similar agencies. University agrees hereby to obtain and maintain evidence of such reports and any necessary payments, including evidence of compliance with the requirements of this paragraph. University further agrees hereby to provide to SMG any such compliance evidence as may be requested by SMG in advance of or after any such Event. University agrees that the obtaining and maintaining of such evidence by University is a material condition of this Agreement.
	4. **Facility Logo.** University shall use the Facility’s logo (the “Facility Logo”) in all advertising controlled by or done on behalf of University relating to an Event, including, but not limited to, television, internet, newspaper, magazine, and outdoor advertising. University’s right to use the Facility Logo shall be limited to the specific, express purpose set forth in the foregoing sentence and/or as otherwise authorized by SMG in writing prior to the use thereof. In connection with University’s use of the Facility Logo as permitted in this Section, University shall use only the form of the Facility Logo as provided by SMG to University in any artwork or other depiction thereof.
	5. **Encumbering Interests.** University shall not encumber, hypothecate, or otherwise use as security its interests in this Agreement for any purpose whatsoever without the express written consent of SMG and City.
	6. **Exits.** No portion of any passageway or exit shall be blocked or obstructed in any manner whatsoever, and no exit door or any exit shall be locked, blocked, or bolted while the Facility is in use. Moreover, all designated exitways shall be maintained in such manner as to be visible at all times.
	7. **Hazardous Materials.** University shall not cause or permit any Hazardous Material to be used, stored, or generated on, or transported to and from the Facility. “**Hazardous Material**” shall mean, without limitation, those substances included within the definitions of “hazardous substances”, “hazardous materials”, “toxic substances”, or “solid waste” in any applicable state or federal environmental law.
	8. **Relocation of University’s Event.** SMG reserves the right to relocate University from the Premises to another space of SMG's choosing of approximately the same dimensions and size. If University is relocated to other space that is leasing at a rent less than that of the Premises, University's rent shall be reduced to the lesser rent.
	9. **Laws, Ordinances and Regulations.** University shall comply with all applicable laws, statutes and ordinances and all rules, regulations and requirements of all federal, state and local governmental authorities. University shall not admit to the Premises a larger number of persons than designated by the SMG.
	10. **Signs.** University, its agents, exhibitors, and any person connected with University’s event, may post signs on convention center property only as permitted by SMG.
	11. **Third-Party Contractors.** University acknowledges that, in connection with SMG’s management and operation of the Facility, SMG utilizes the services of certain third-party independent contractors (the “Third-Party Contractors”).
	12. **Representations and Warranties.** Each party hereto hereby represents and warrants to the other party that it has the full power and authority to enter into this agreement and perform each of its obligations hereunder; it is legally authorized and has obtained all necessary regulatory approvals for the execution, delivery and performance of this agreement; and no litigation or claims exist which might adversely affect its liability to fully perform its obligations. University expressly acknowledges that neither SMG, nor the City, nor anyone acting on behalf of either of them has made any representation guarantee, or promise with respect to the financial success or other success of University’s event.
	13. **Maximum Liability.** The maximum amount that University will pay for goods and/or services under this contract is **$ [AMOUNT]**.

The parties are signing this agreement on the date stated in the introductory clause.

**The University of Tennessee SMG/Operator**

Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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