



Capital One Hall

**Use License Agreement
Between
USER
And SMG**

Publish Date: February 10, 2021

USE LICENSE AGREEMENT

BY AND BETWEEN

SMG AND **USER**

DATED: February 2, 2021

Dates: ALL CONFIRMED DATES HERE
Performance Date: PERFORMANCE / EVENT DATES HERE

USE LICENSE AGREEMENT

THIS USE LICENSE AGREEMENT (together with the Exhibits and riders attached hereto, the “**Agreement**”) is dated as of this 10th day of February, 2021 by and between SMG, a Pennsylvania general partnership, acting on behalf of Capital One Tysons Block C Owner, LLC, with an office at 7750 Capital One Tower Road, Tysons, Virginia 22102 (“**SMG**”), and **USER NAME, ADDRESS HERE (Licensee)**”).

BACKGROUND

SMG is a party to a certain management agreement (the “**Management Agreement**”) dated as of September 1, 2018, with Capital One Tysons Block C Owner, LLC, a Delaware limited liability company (“**Owner**”), whereby SMG has been retained to act on Owner’s behalf in respect of a facility commonly known as Capital One Hall, located at 7750 Capital One Tower Drive, Tysons, VA 22102 (the “**Facility**”). Licensee 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 execute agreements on Owner’s behalf relating to the use of the Facility. Accordingly, SMG, on behalf of Owner, desires to grant to Licensee, and Licensee 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:

1. **Grant of License.**

(a) SMG hereby grants Licensee, upon the terms and conditions hereinafter expressed, a license (the “**License**”) to use those areas of the Facility described on Exhibit A attached hereto (the “**Authorized Areas**”), including all improvements, furniture, fixtures, 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 Licensee 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, Licensee 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.

(b) Licensee shall not use the Facility other than during the Event without the SMG’s prior written consent. Any request by Licensee to use the Facility at any time other than the time specified for the Event shall be in writing and shall specifically state the additional times and dates requested. If SMG grants Licensee’s request to use the Facility at the additional times and dates requested, each such date and time shall be considered an Event hereunder and, except as otherwise provided herein, Licensee shall pay SMG a separate fee for each additional Event in accordance with the terms and conditions of this Agreement. SMG shall have no obligation to grant Licensee’s request for additional times and dates outside of the scheduled Events.

(c) Licensee shall not use any portion of the Facility other than the Authorized Areas, as stated on Exhibit A, without SMG's prior written consent. Licensee shall make a request to use additional areas of the Facility in writing and shall specifically state the additional areas of the Facility that it desires to use. If such permission is granted by SMG, Licensee shall pay an additional fee hereunder in an amount determined by SMG to represent a fair value for use of such additional areas of the Facility during such Event. SMG shall have no obligation to grant Licensee's request to use additional areas of the Facility.

(d) The Facility is to be used solely for: **DATES AND EVENT NAME** as more fully described on Exhibit A (the "**Authorized Use**"), and for no other purpose whatsoever.

2. Use of the Facility.

(a) Licensee shall be solely liable for any and all losses, liabilities, claims, damages and expenses, including, without limitation, reasonable costs of investigation and attorneys' fees (collectively, the "**Losses**") occurring at the Facility (whether within or without an Authorized Area) caused to SMG, Owner and/or persons and/or property in, on, or near the Facility before, during, or after an Event, by (i) Licensee's failure to comply with any and all federal, state, commonwealth, local, and municipal regulations, ordinances, statutes, rules, laws, constitutional provisions, and common laws (collectively, the "**Laws**") applicable to Licensee's performance of this Agreement and/or activities at the Facility, (ii) any unlawful acts on the part of Licensee or its officers, directors, agents, employees, contractors, subcontractors, representatives, licensees, artists, guests or invitees, (iii) the negligent acts, errors and/or omissions or the willful misconduct of Licensee or its officers, directors, agents, employees, contractors, subcontractors, representatives, licensees, artists, guests or invitees, (iv) the breach or default by Licensee or its officers, directors, agents, employees, contractors, subcontractors, representatives, licensees or artists of any provisions of this Agreement, including, without limitation, the provisions of Section 20(l) hereof (relating to intellectual property matters), Section 21 hereof (relating to the Civil Rights Act), and Section 22 hereof (relating to the Americans with Disabilities Act), and (v) any and all rigging from or to the physical structure of the Facility or any fixture thereto, set-up, alterations, and/or improvements at or to the Facility necessitated by and/or performed with respect to the Event.

(b) Licensee shall conduct business in the Facility in a dignified and orderly manner with full regard for public safety and in conformity with SMG's general rules and regulations, including, without limitation, fire and safety rules as required by SMG and/or local fire regulations, as such may exist from time-to-time. Licensee shall not use the Facility or permit the Facility to be used by any of its officers, directors, agents, employees, contractors, subcontractors, representatives, licensees, artists, guests or invitees, for any unlawful or immoral purpose or in any manner to injure persons or property in, on or near the Facility. If SMG, in consultation with Owner and/or local law enforcement, believes, in its sole discretion, that such acts are reasonably likely to occur, or that the Event could pose imminent safety risks to artists, patrons, or venue staff, SMG may, in its sole discretion, take any legal means necessary to prevent such occurrences, including, without limitation, immediate termination of this Agreement. Licensee agrees to indemnify and hold harmless Licensee Indemnified Parties (as defined below) from any claims relating to actions or omissions by SMG in conformity with this Section 2(b).

(c) Licensee shall obtain prior written approval from SMG, which consent may be withheld or conditioned by SMG in its sole discretion, for any pyrotechnic displays which Licensee anticipates may be performed at the Facility during the term of this Agreement.

(d) In granting the License to Licensee, SMG does not relinquish the right to control the management of the Facility, and to enforce all the necessary and proper rules for the management and operation of the same. In that regard, SMG, its agents, representatives and employees, including the General Manager of said Facility, may enter the same, including the Authorized Areas, at any time and on any occasion without prior notice. Licensee agrees that it will not allow, at, in or about the Facility, any officer, director, agent, employee, contractor, subcontractor, representative, licensee, artist, guest or invitee, whose presence, upon reasonable grounds, shall be objected to by SMG, and such person's license to use or enter the Facility may be revoked immediately by SMG.

(e) Licensee 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**"). Licensee hereby agrees that neither SMG nor Owner shall be responsible in any way for the acts and/or omissions of any one or all of the Third-Party Contractors, except as may be set forth in Section 17(b) below.

3. **Condition of Facility.**

(a) Licensee acknowledges that Licensee has inspected the Facility and that it is satisfied with and has accepted the Facility in its present condition. Upon request, Licensee shall have the right to conduct a pre-Event walk-thru of the Authorized Areas with a representative of SMG.

(b) SMG shall 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.

(c) Licensee shall not injure nor mar, nor in any manner deface, the Facility, and shall not cause or permit anything to be done whereby the Facility shall be in any manner injured or marred or defaced, nor shall Licensee drive or permit to be driven, any nails, hooks, tacks or screws in any part of the Facility. Licensee hereby assumes full responsibility for the character, acts, and conduct of all persons admitted to any portion of the Facility and grounds by or with the consent of Licensee, or by or with the consent of Licensee's employees or any person acting for or on behalf of the Licensee. Licensee agrees to have on hand at all times sufficient security (including, but not limited to, Facility event staff and door guards, contracted security and/or Fairfax County Police Department officers) to maintain order and protect persons and property. If SMG deems it to be necessary, in its sole discretion, a refundable damage deposit will be withheld during Final Settlement (as defined below) and will be refunded upon a walk-through of the Facility only if SMG deems no damage has been incurred. Any damages to the Facility and its appurtenances or grounds caused by Licensee or its officers, directors, agents, employees, contractors, subcontractors, representatives, licensees, artists, guests or invitees shall be paid for by Licensee at the actual or estimated cost of repair, as elected by SMG, upon demand. If the Facility, or any portion of the Facility or grounds, during the term of this Agreement, shall be damaged by the act, default or negligence of Licensee or by the Licensee's officers, directors, agents, employees,

contractors, subcontractors, representatives, licensees, artists, guests, invitees or any person or persons admitted to the Facility by the Licensee, the Licensee will pay to SMG upon demand, such sum as shall be necessary to restore said Facility to its original condition.

(d) Licensee shall not make any alterations or improvements to the Facility without the prior written consent of SMG. Any alterations or improvements of whatsoever nature made or placed by Licensee to or on the Facility shall, at the option of SMG, (i) be removed by Licensee, at Licensee's expense, immediately upon the conclusion of the Event, or (ii) become the property of SMG. Licensee shall restore the Facility to its condition immediately prior to the installation of the alterations or improvements; however, at SMG's option, SMG may restore the Facility following removal of Licensee's alterations or improvements and Licensee shall reimburse SMG for the cost of such upon demand. Licensee shall be responsible for the cost of any damage to the Facility caused by the installation and/or removal of Licensee's alterations or improvements (whether the same are removed by SMG or Licensee).

(e) Notwithstanding anything to the contrary set forth herein, Licensee shall be solely responsible and liable for all Losses arising out of (i) all rigging from or to the physical structure of the Facility or any fixture thereto, (ii) set-up or tear-down, or (iii) alterations and/or improvements at or to the Facility, necessitated by and/or performed with respect to the Event.

(f) Licensee's obligations under this Section 3 shall survive the expiration or earlier termination of this Agreement.

4. **Responsibility for Property in the Facility.**

(a) SMG assumes no responsibility whatsoever for any property placed in Facility by Licensee, and SMG is hereby expressly relieved and discharged from all liability for any loss, injury or damage to such property that may be sustained because of the occupancy by Licensee of Facility or any part thereof under this Agreement. All watchmen or other protective services, with respect to the property of the Licensee in the Facility, desired by Licensee, must be arranged by special agreement with SMG.

(b) SMG may, at its election, accept delivery of property addressed to Licensee only as a service to Licensee, and Licensee will indemnify, defend, and hold harmless Licensee Indemnified Parties for any loss or damage to such property in the receipt, handling, care, and custody of such property at any time.

(c) SMG shall have the sole right to collect and have the custody of articles left in the Facility by persons attending any Event, and neither the Licensee nor any person in Licensee's employ or control shall collect nor interfere with the collection or custody of such articles.

(d) In the event that the Authorized Areas of the Facility are not vacated by Licensee on or before the Expiration Time, SMG shall be and is hereby authorized to move from Facility, at the expense of the Licensee, goods, wares, merchandise, trade fixtures, equipment and other property of any and all kinds and description, which may then be occupying any portion of Facility beyond the Expiration Time, and SMG shall not be liable for any damages to or loss of such property which may be sustained, either by reason of such removal or by the place to which it may be removed, and SMG is hereby expressly released from any and all claims for damages of whatever kind or nature. For any such additional period beyond the Expiration Time, with respect to any such property that remain in the Facility, SMG shall be entitled to charge a fee per day established in SMG's sole discretion or as specified in Exhibit B to this Agreement.

(e) Neither Licensee, nor its employees, agents, representatives, licensees, contractors, subcontractors or artists, shall load-in and load-out any materials or other property except at times and in a manner approved by SMG.

5. **Term of License.** The License granted in Section 1 above will be effective as of the date and time set forth on Exhibit A and will continue in effect, unless earlier terminated as set forth in Sections 18 or 25(e), until the date and time set forth on Exhibit A.

6. **License Fee, Reimbursable Services Expense, Facility Fee, Merchandising Fees, Broadcast Fees and Other Expenses.**

In consideration of the grant of the License in Section 1 above, Licensee shall pay to SMG the fees and other amounts set forth in this Agreement, and shall reimburse SMG for certain service expenditures, all as calculated and payable in accordance with the provisions of this Section 6 and Exhibit B:

(a) **License Fee.** Licensee shall pay to SMG a flat, “all in” License Fee in the amount of One Thousand Nine Hundred Fifty (\$1950.00) (“**License Fee**”) per day which shall include the following: Front of House including 6 Ushers/Ticket Takers for 4 hours each, 2 Box Office sellers for 4 hours each, 1 General Production/Operations Assistant for 6 hours, 1 Event Housekeeper for 6 hours, EMT (if required), Police (if required, 1 officer), 4 T-shirt/Crowd Management staff acting as security/bag checkers for 4 hours and 3 in-house crew/staffing for set up and changeover/teardown for 4 hours each and post Housekeeping, not to exceed \$750.00 per day. “All in” License Fee includes the use of all In-house Equipment. Current list of equipment will be provided with this License Agreement.

The License Fee **does not include**, among other exclusions, the following: Event marketing, public relations, and advertising costs and expenses (advertising, marketing, and public relations services to be negotiated pursuant to Section 6(i) below), ASCAP/BMI/SESAC or other similar licensing fees, box office credit card fees and expenses at the Facility box office, backstage catering, phones and service, long distance charges, high speed internet service, police (above 2 officers), EMT (above 1 crew members), runners, towels, crowd management staff/uniformed security including overnight security (above 4), stagehands (including loaders, electricians, property and wardrobe), the Exclusive Ticketing Company, **TicketMaster**’s printing or inside charges, armored car delivery fees, floor carpeting, other rented furniture or equipment, business license fees, any governmental body’s admission taxes, ticket surcharges, and any governmental body’s sales tax on equipment.

(b) **Reimbursable Services Expense.** SMG shall provide, as required for each Event, the following services and equipment, the expenditure for, and costs of which, are reimbursable by Licensee to SMG (“**Reimbursable Services Expense**”) unless otherwise specified herein. This Reimbursable Services Expense includes, but is not limited to, the following expenses, costs and charges: Event services staff; stagehands; forklift operators; truck loaders; stage electricians; ticket takers; door guards; supervisors; Event receptionists; production assistants; runners; box office services; ticket sellers; general laborers; ushers; usher supervisors; medical services for Event attendees, which services shall include ambulances, doctors, nurses, medical operations personnel and supervisors, and paramedics; Event backstage catering and food and beverage services;

security personnel; utilities, including electricity, gas, lighting, water, heating, ventilating, air conditioning, hot and cold water facilities, and waste removal services; electricians and mechanical plant staff; Event custodial services; equipment, materials, or extra services furnished by SMG at the request of Licensee and any other SMG employee necessary for the preparation and presentation of the Event; contract labor and products and services provided by SMG, including police officer(s), fire marshal(s), and EMT(s); towels, based upon size and quantity; security personnel including overnight security and crowd management personnel; communications expenses including internet access, telephone lines, long distance (including, intrastate and interlata) services; scoreboard operations; audio and video production services; armored car delivery fees; rented equipment; any other special, Facility-owned equipment, materials, staff or necessary item(s) for the presentation of the Event; Ticketing Agency printing/inside charges; and any marketing or group sales fees, costs and commissions (if applicable). All equipment and services will be billed at prevailing rates and all staff furnished by SMG will be billed at prevailing wage rate for positions held and tasks performed for the time period worked, either at the request of Licensee or required by SMG to properly prepare for and present the Event. If it is necessary for SMG to assist in the handling of props, scenery, supplies or equipment of Licensee, Licensee shall pay to SMG the cost of such, and if it is necessary for SMG to employ extra personnel such as wardrobe personnel, stagehands, Event staff, janitors, etc., then Licensee shall pay the cost for said extra help. Payment of the Reimbursable Services Expense, by Licensee to SMG, is due in full at Final Settlement. An estimate of the Reimbursable Services Expense is attached hereto and made a part of this Agreement as Exhibit B. **Said estimate states the rates and charges for labor, services and equipment to be made but is not intended to be an actual cost for Reimbursable Services Expense. Actual cost will be determined at Final Settlement, which Final Settlement shall take place as soon as possible but in no event more than one week after completion of the Event.**

(c) Staffing Levels. Notwithstanding anything contained herein to the contrary, SMG shall determine the level of staffing necessary for the Event in its sole discretion, after consultation with, and input from, Licensee. Licensee acknowledges and understands that many of the services are contracted services, the costs of which are subject to change. Licensee shall inform SMG at least two weeks in advance of the Event, in writing, of its requirements for services and equipment in support of the Event. In the event Licensee fails to so inform SMG, then the decisions of SMG as to necessary services and support shall control.

(d) Food and Beverage. Unless otherwise set forth on Exhibit A or agreed in writing, it is understood and agreed that there will be food and beverage and alcoholic beverage sales during the Event, and SMG, or its designated concessionaire, shall retain exclusively all revenues from the sale thereof, and Licensee shall have no rights to or claims thereon. It is further understood and agreed that SMG or SMG's designated concessionaire has the exclusive rights to all catering, including backstage catering, done in the Facility.

(e) Facility Fee. N/A

(f) Credit Card Expense. Additionally, SMG shall be paid an amount equal to four percent (4%) of the total revenues from credit card ticket purchases at the Facility box office

(g) Taxes. If applicable, Licensee shall pay sales, ticket, or amusement taxes of four percent (4%) of gross box office receipts (if applicable) for the Event (“**GBOR**”), which tax shall be collected and retained by SMG at Final Settlement and remitted by SMG to the appropriate taxing authority.

(h) Merchandise Fees. All Event merchandise, including apparel, novelties, programs, on-site recorded CDs or DVDs, recorded media, and the like, shall be sold by SMG, or by SMG's designated representative, on consignment. Merchandise sales proceeds, after the deduction of all applicable taxes, security expenses (including bootleg security staff), and credit card expenses, will be split seventy-five percent (75%) to Licensee, twenty five percent (25%) to SMG if labor is covered or a flat "buy out" fee of \$50.00 flat.

(i) Marketing Expenses. If Licensee desires the use of SMG's marketing department for marketing, public relations, or advertising services for the Event, then Licensee shall pay to SMG a commission of ten percent (10%) on all media of any sort placed by SMG. Whenever possible, SMG shall utilize its contracted or favorable rates for such advertising if such rates provide an economic benefit to Licensee. Such commission and all out-of-pocket costs incurred by SMG in providing the aforesaid services shall be included as a Reimbursable Services Expense and paid by Licensee at Final Settlement.

(j) Group Sales. If Licensee utilizes SMG's group sales department for the Event, then Licensee shall pay to SMG a commission of six percent (6%) on all group tickets sold. Such commission and all out-of-pocket costs incurred by SMG in providing the aforesaid services shall be included as a Reimbursable Services Expense and paid by Licensee at Final Settlement.

(k) Broadcast Fee. SMG shall retain all television, film, radio and/or recording rights of any kind to any Events which take place in or at the Facility. Licensee may purchase such rights from SMG for a broadcast fee (the "**Broadcast Fee**") which will be mutually agreed upon. In addition to the Broadcast Fee, Licensee shall reimburse SMG for all additional costs and expenses, including but not limited to, additional costs for stage hand labor for the Event, incurred or caused as a result or consequence of any such filming, taping, recording, broadcasting, streaming, simulcasting, or the like.

(l) Deposit. Licensee shall pay to SMG a non-refundable deposit in the amount of One Thousand Nine Hundred and Fifty Dollars (\$1950.00) in the form of a cashier's check, wire transfer, cash, or other immediately negotiable form, which deposit is due, along with both copies of this Agreement, executed by Licensee, on or before July 1, 2021. Upon receipt and execution by SMG, a fully executed copy of this Agreement will then be forwarded to Licensee. Any remaining amounts due to SMG hereunder for License Fee, Reimbursable Services Expense, or other amounts as specified herein, will be due upon Final Settlement, unless otherwise set forth on Exhibit B.

(m) Cancellation. If Licensee cancels the Event, the Licensee shall reimburse SMG for its actual costs and expenses incurred in connection with scheduling personnel and services, and advertising and marketing expenses, if applicable, and SMG shall retain the deposit as described above. Further, if cancellation of an Event by the Licensee occurs less than [90] days prior to the date of a scheduled Event, SMG reserves the right to charge a daily performance rental rate for each Event date canceled.

7. Advertising.

Licensee, having been so informed by SMG, understands that each of SMG and Owner may have entered into and/or may hereafter (prior to the Event) enter into agreements with parties other than Licensee providing for, among other things, exclusive naming rights, exclusive category sponsorship and advertising rights, exclusive signage and display rights and/or exclusive product brand, pouring and/or service rights in and relating to the Facility and that SMG or Owner, as

applicable, may be required, pursuant to one or more of such other agreements, to give notice of all booked events in the Facility to the holders of such rights for the purpose of initiating consideration and communications, at the option of such holders, regarding sponsorship of events, including Licensee's Event. With such understanding, Licensee acknowledges and agrees (i) that Licensee and its officers, employees, agents, contractors and subcontractors, including, but not limited to, all persons producing, promoting, advertising, staging, directing, performing, presenting, conducting and/or otherwise participating in the Event, shall cooperate fully with SMG and Owner in their respective adherence to and performance of such other agreements and comply with all requirements imposed by SMG arising from or relating to such other agreements in connection with Licensee's use of the Facility, including, but not limited to, due observance of all Facility branding and naming rights and proper use of the Facility Name and Facility Logo (as such terms are defined below), Owner name and logo, and the SMG name and logo, in all advertising and other communications concerning or relating to the Event; (ii) that Licensee shall not for any reason or purpose cover or otherwise alter or interfere with any displays, advertising, graphics, signage and/or other electronic or printed media in or about the Facility; and (iii) that all rights to place advertising on ticket backs, ticket stubs and all other parts of Licensee's tickets are reserved in favor of SMG. All communications and media pertaining to the Event shall be submitted to the Facility marketing department for approval prior to production, printing, or distribution.

8. **Box Office and Tickets.**

- (a) All admission tickets sold and/or issued for access to the Facility relating to the Event shall be exclusively controlled by the Facility's box office. Only employees under the direct control and supervision of SMG shall be permitted access to, and use of, the box office facilities. Licensee shall deliver to the Facility box office all information required for the sale of such tickets no later than three (3) weeks prior to the anticipated on-sale date.
- (b) All admission tickets will be made available for sale at the Facility box office during normal operation box office hours; through the charge-by-phone, internet and retail outlet ticketing locations (if any) pursuant to the ticketing service provided by the Facility's Ticketing Agency; and by any other method determined by SMG.
- (c) SMG will provide regular sales reports as requested by Licensee.
- (d) If a large crowd is anticipated for the initial on-sale date of the Event, there may be an additional charge to the Licensee for event services staff, set up or supplies related to the on-sale activities. SMG may, at its discretion, utilize a lottery system using numbered wristbands to deter illicit ticket scalping and to deter ticket buyers from forming lines overnight. In addition, Licensee shall reimburse SMG as a Reimbursable Services Expense, all special expenses incurred in connection with ticket sales through the Facility's box office or ticket system, including, but not limited to, the cost of special telephone sales, special services or any special materials requested by Licensee.
- (e) Licensee shall be solely responsible for the refund of the price of any tickets and applicable service charges and/or convenience charges, to any Event that is canceled. All refunds are made at the place of purchase.
- (f) Unless otherwise agreed upon in writing, SMG does not issue or distribute tickets on consignment, and all tickets must be paid for prior to printing and distribution. It is understood

and agreed that the Facility has an exclusive agreement for ticketing with TicketMaster (the “**Ticketing Agency**”). In the event that Licensee desires that blocks of tickets be sold by means other than through the Ticketing Agency, then the Licensee shall i) provide a written waiver from the Ticketing Agency of its rights to sell such block of tickets, and ii) pay to SMG the sum of One Dollar per paid ticket (\$ 1.00 per paid ticket) as additional Licensee Fee, for any such tickets, in excess of 10 tickets, not sold through the Ticketing Agency’s system. SMG shall, in its sole discretion, have the right to designate a secondary box office (serviced by the Ticketing Agency) for the sale of tickets to the Event.

(g) Customers purchasing tickets at locations other than the Facility box office may be required to pay a service or convenience charge, or other charges or fees, which are added to the price of the ticket and collected by the Facility’s Ticketing Agency. Such prevailing fees and charges are subject to change at any time without notice.

(h) No cash advances based on box office receipts will be made prior to headlining performers taking the stage.

(i) In no event shall tickets to the Event by Licensee, be sold or disposed of in excess of seating capacity of the house. Unless otherwise agreed to in writing, no patrons will be admitted to the Facility without an admission ticket.

(j) SMG shall receive up to Fourteen (14) complimentary (at no charge), top-priced (P1) tickets per performance of the Event for the exclusive use of SMG or its designees. Any unused tickets will be returned to open status for sale to the general public.

(k) Licensee shall be limited to Two Hundred (200) tickets at no charge (complimentary tickets) unless otherwise agreed upon by SMG in writing.

9. **Event Financial Settlement.**

(a) As soon as reasonably possible after the closing of the Facility box office for the Event, SMG shall furnish Licensee with a financial settlement statement and box office statement and settle with Licensee in accordance with this Agreement (the “**Final Settlement**”). Licensee agrees to pay SMG, at the time of Final Settlement, any amounts shown to be due SMG which were not paid to SMG by the application of box office receipts and deposits.

(b) All deposits and box office receipts, after applicable sales or amusement taxes are deducted, shall be held by SMG and applied in accordance with the provisions of this Agreement. SMG will remit to the appropriate taxing authority, any sales, amusement or similar tax due. Remaining deposits and box office receipts shall be applied as follows: (i) SMG shall retain any amounts as may be necessary to satisfy any obligation or liability of Licensee to SMG under this Agreement or otherwise, including, without limitation, any damages, whether stipulated herein or not, to which SMG may be entitled because of any breach of this Agreement by Licensee, (ii) any remaining deposits and box office receipts shall be paid to Licensee. Notwithstanding the foregoing, if the Facility was damaged because of the presentation of the Event therein, SMG, in its sole discretion, shall be entitled to withhold from the amount otherwise due Licensee a reasonable amount to pay for any such damage.

10. **Advance Deposits.**

(a) On the date that is fourteen (14) days prior to the Event, if, in the sole discretion of SMG, the anticipated GBOR for such Event will be inadequate to cover the estimated Event-related Facility expenses, including, but not limited to, License Fee, Facility Fee, Broadcast Fee and Reimbursable Services Expense, Licensee shall pay, in escrow, in immediately negotiable funds, to SMG, an amount equal to the SMG's estimate of such shortage. In addition, Licensee shall, in the sole discretion of SMG, provide evidence of Licensee's financial capacity to pay other Event-related expenses, including, but not limited to, production costs and talent fees.

(b) Additionally, at SMG's sole discretion, SMG may require, not later than seven (7) business days prior to the Event, that Licensee place additional funds, in the form of a deposit in cash, in escrow with SMG, to cover the total estimated Event-related Facility expenses, including, but not limited to, License Fee, Facility Fee, Broadcast Fee and Reimbursable Services Expense, regardless of the GBOR.

(c) If Licensee fails promptly to comply with any of the above deposit requirements, such failure shall constitute an act of default hereunder, and SMG may, upon written notice to Licensee, immediately terminate this Agreement without liability or obligation to Licensee.

11. **Taxes.** SMG shall not be liable for the payment of taxes, late charges, or penalties of any nature relating to the Event or otherwise, or any revenue received by or payments made to Licensee in respect of the Event, except as provided by Law or as otherwise specified herein. Licensee shall pay and discharge, as they become due, promptly and before delinquency, all 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 Licensee.

12. **Facility Name and Logo.** When referring to the Facility during the term of this Agreement, Licensee shall use the Capital One Hall, or such replacement name designated by SMG upon the direction of the Owner (the "**Facility Name**"), and no other name, and shall use reasonable best efforts to require third parties that it contracts with in connection with the Facility to do the same. The use and designation of the Facility Name shall include, but not be limited to, printed materials, advertising, admission tickets and public relations or promotional press releases. Additionally, Licensee shall use the Facility Name and the Facility's logo (the "**Facility Logo**") in all advertising controlled by or done on behalf of Licensee relating to an Event, including, but not limited to, broadcast, television, internet, newspaper, magazine, and outdoor advertising. Licensee's right to use the Facility Name and 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 Licensee's use of the Facility Logo as permitted in this Section 12, Licensee shall use only the form of the Facility Logo as provided by SMG to Licensee.

13. **Revenues and Costs.** Licensee shall have no right or claim to any revenues generated in connection with parking area fees or charges at the Facility, whether collected at the parking area, pursuant to a purchase along with an event ticket or included in the price of the ticket.

In addition to payment of the Reimbursable Services Expense above, Licensee shall bear all expenses incurred by Licensee 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.

14. **Records, Reports, and Audits.**

(a) **Records.** Licensee 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. Licensee shall keep and preserve such books and records at all times during the term of this Agreement and for at least three (3) years following the expiration or termination hereof.

(b) **Audits.** Licensee shall give SMG and its representatives access to the books and records Licensee maintains pursuant to Section 14(a) at any time when so requested by SMG. Licensee shall also provide, at Licensee's own expense, a copy of any such book or record upon request.

15. **Reservation of Rights.** SMG reserves, on behalf of the Owner, all rights not specifically granted to Licensee under the terms hereof, including, but not limited to, the sole right to sell or give away food and beverage (including, without limitation, beer, wine, liquors or alcoholic beverages of any kind) items and souvenir merchandise, to conduct check rooms, to take photographs and other privileges. Licensee shall not engage in, permit to occur or undertake the sale or distribution (either purchased or complimentary) of any of the aforesaid or similar articles or privileges, without the prior written consent of the SMG. SMG is responsible for providing all personnel and/or subcontracted personnel (at SMG's sole discretion) to operate all food and beverage concessions (including the preparation, selling or distribution of any kind), and merchandise sales, and to retain all proceeds from same, unless otherwise agreed upon herein. SMG will have the sole right to determine whether alcoholic beverages (beer, wine, assorted mixed drinks and other alcoholic beverages) will be sold during the Event.

16. **Insurance.**

(a) Licensee shall, at its own expense, secure and deliver to SMG not less than thirty (30) days prior to the first Event set forth on Exhibit A, and shall keep in force at all times during the term of this Agreement:

- (i) a comprehensive general liability insurance policy in a form acceptable to SMG, including liability for bodily injury and death and property damage, covering its activities hereunder, in an amount not less than One Million Dollars (\$1,000,000) for bodily injury and One Million Dollars (\$1,000,000) for property damage, including blanket contractual liability, independent contractors, and products and completed operations. The foregoing general liability insurance policy shall not contain exclusions from coverage relating to the following: participants' activities or issues related to the Event hereunder, sporting events, high risk events (including, without limitation, rap concerts and electronic dance music events), performers, volunteers, animals, off-premise activities, and fireworks or other pyrotechnical devices;

- (ii) comprehensive automotive bodily injury and property damage insurance in a form acceptable to SMG for business use covering all vehicles operated by Licensee, its officers, directors, agents and employees in connection with its activities hereunder, whether owned by Licensee, SMG, or otherwise, with a combined single limit of not less than One Million Dollars (\$1,000,000) (including of hired and non-owned coverage); and
 - (iii) applicable workers' compensation insurance for Licensee's employees, as required by applicable Law, including employer's liability coverage of at least One Million Dollars (\$1,000,000).
- (b) The following shall apply to the insurance policies described in Sections 16(a)(i) and (ii) above:
- (i) SMG and Owner shall be included as additional insureds thereunder. Not less than thirty (30) days prior to the first Event set forth on Exhibit A, Licensee shall deliver to SMG certificates of insurance evidencing the existence thereof, all in such form as SMG may reasonably require. Each such policy or certificate shall contain a valid provision or endorsement stating, **“This policy will not be canceled or materially changed or altered without first giving thirty (30) days’ written notice thereof to each of (i) SMG, Risk Management Director, 300 Conshohocken State Road, Suite 450, West Conshohocken, PA 19428; and (ii) Capital One Tysons Block C Owner, LLC, 7750 Capital One Tower Road, Tysons, Virginia 22102, and (iii) SMG, Attention: Dolly Vogt, Executive Director, 7750 Capital One Tower Road, McLean, VA 22102.”** If any of the insurance policies covered by the foregoing certificates of insurance will expire prior to or during the time of an Event, Licensee shall deliver to SMG at least fourteen (14) days prior to such expiration a certificate of insurance evidencing the renewal of such policy or policies.
 - (ii) The coverage and limits provided under such policies shall be occurrence-based, not claims made.
 - (iii) Licensee hereby acknowledges that the coverage limits contained in any policy, whether such limits are per occurrence or in the aggregate, shall in no way limit the liabilities or obligations of Licensee under this Agreement, including, without limitation, Licensee's indemnification obligations under Section 17 below.
 - (iv) Licensee is responsible to ensure that any contractors utilized by Licensee and present at the Facility comply with the insurance provisions of this Section 16.
- (c) The terms of all insurance policies referred to in this Section 16 shall preclude subrogation claims against SMG and Owner and their respective officers, directors, employees, and agents.
- (d) The failure of the Licensee to provide insurance in accordance with this Section 16 shall be a material breach of this Agreement and shall, notwithstanding the terms and conditions set forth in Section 18 below, preclude the Event from taking place.

17. **Indemnification.**

(a) Licensee shall indemnify, defend and hold SMG, the Owner and their respective affiliates, directors, officers, employees, agents, representatives, successors and permitted assigns and their employees (the “**Licensee Indemnified Parties**”) harmless from and against any and all Losses arising from or in connection with (a) any work or thing whatsoever done, or any condition created in or about the Facility during an Event; (b) any act, omission or negligence of Licensee or any of its partners, directors, officers, agents, employees or contractors; (c) any accident, injury or damage whatever occurring in, at or upon the Facility during an Event arising out of Licensee’s negligence; and (d) any breach or default by Licensee in the full and prompt payment and performance of Licensee’s obligations hereunder; including, without limitation, all reasonable attorneys’ fees and expenses of the Licensee Indemnified Parties. In case any action or proceeding is brought against any of the Indemnified Parties because of any such claim, the Licensee Indemnified Parties may either (y) defend against such claim at Licensee’s expense with counsel selected by the Licensee Indemnified Parties or (z) notify Licensee of the claim in which event Licensee, at its sole cost and expense, shall resist and defend such action or proceeding using counsel selected or approved by the Licensee Indemnified Parties.

(b) SMG shall indemnify, defend and hold Licensee and its agents, employees and representatives (the “**SMG Indemnified Parties**”) harmless from and against any and all Losses arising from or in connection with (a) any work or thing whatsoever done, or any condition created in or about the Authorized Area during an Event: (b) any act, omission or negligence of SMG or any of its partners, directors, officers, agents, employees or contractors; (c) any accident, injury or damage whatever occurring in, at or upon the Authorized Area during an Event arising out of SMG’s negligence; and (d) any breach or default by SMG in the full and prompt payment and performance of SMG’s obligations hereunder; including, without limitation, all reasonable attorneys’ fees and expenses of the SMG Indemnified Parties. In case any action or proceeding is brought against any of the Indemnified Parties because of any such claim, the SMG Indemnified Parties may either (y) defend against such claim at SMG’s expense with counsel selected by the SMG Indemnified Parties (z) notify SMG of the claim in which event SMG, at its sole cost and expense, shall resist and defend such action or proceeding using counsel selected or approved by the SMG Indemnified Parties.

(c) The provisions set forth in this Section 17 above shall survive termination or expiration of this Agreement.

18. **Default, Termination and Other Remedies.**

(a) Licensee Default. Licensee shall be in default under this Agreement if any of the following occur:

- (i) Licensee fails (a) to pay any amount due hereunder (including, without limitation, the Licensee Fee, Facility Fee, Broadcast Fee, or the Reimbursable Services Expense) when the same are required to be paid hereunder, or (b) to provide the security in the form of the deposits required under Sections 6 and 10 hereof by the date when due; or
- (ii) Licensee or any of its officers, directors, employees or agents fails to perform or fulfill any other term, covenant, or condition contained in this Agreement and

Licensee fails to commence a cure thereof within five (5) business days after Licensee has been served with written notice of such default; or

(iii) Licensee fails to maintain the insurance policies required by this Agreement or to provide evidence of such insurance coverage as required herein; or

(iv) Licensee makes a general assignment for the benefit of creditors or files a bankruptcy petition (or is the subject of an involuntary bankruptcy filing).

(b) SMG Default. 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.

(c) Cure Rights and Limitations. Nothing herein shall be construed as excusing either party from diligently commencing and pursuing a cure within a lesser time if reasonably possible. Notwithstanding Section 18(a)(ii) above, if the breach by Licensee or any of its officers, directors, employees, or agents 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.

(e) Termination by Reason of Default. Upon a default pursuant to Section 18(a) or (b) hereof, the non-breaching party may, at its option, upon written notice or demand upon the other party, cancel and terminate the License and the obligations of the parties with respect thereto. In addition to the foregoing, if Licensee 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 Licensee hereunder until the completion of an investigation relating to such violation.

(f) 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 if a dispute occurs between Licensee and its employees or between Licensee and any union or group of employees because of the union affiliation or lack of union affiliation of persons employed by Licensee or any one with whom Licensee contracts.

(g) Injunctive Relief. In addition to any other remedy available at law, in equity, or otherwise, SMG shall have the right to seek to enjoin any breach or threatened breach and/or obtain specific performance of this Agreement by Licensee upon meeting its burden of proof of such breach or threatened breach as required by applicable Law.

(h) Unique Qualities. The parties agree and acknowledge that the Licensee is a unique entity and, therefore, the rights and benefits that will accrue to SMG by reason of this Agreement are unique and that SMG may not be adequately compensated in money damages for Licensee's failure to comply with the material obligations of Licensee under this Agreement and that therefore SMG, at its option, shall have the right to pursue any remedy available at law, equity, or otherwise, including the recovery of money damages and/or the right to seek equitable relief (whether it be injunctive relief, specific performance or otherwise) in the event that Licensee violates its obligation to hold an Event at the Facility, or to provide evidence of fulfillment of its obligations under Section 20(l) of this Agreement.

(i) Limitation of Liability. If this Agreement is terminated because of a default by SMG, or if the Event cannot be held or is cancelled or cannot be completed after the beginning thereof due to

a breach by SMG of its obligations under this Agreement, Licensee's sole remedy shall be the return of the License Fee paid by Licensee for such Event. Neither SMG nor the Owner shall be liable, under any theory whatsoever, whether related to the termination of this Agreement, any breach by SMG of its obligations hereunder or any reason, for any harm or damage, whether direct, indirect, consequential or special (including but not limited to loss of business or profits, lost value of the business or any other economic loss), suffered by Licensee.

19. **Representations and Warranties.** Each party hereby represents and warrants to the other party, and agrees as follows:

(a) It has the full power and authority to enter into this Agreement and perform each of its obligations hereunder;

(b) It is legally authorized and has obtained all necessary regulatory approvals for the execution, delivery, and performance of this Agreement; and

(c) No litigation or pending or threatened claims of litigation exist which do or might adversely affect its ability to fully perform its obligations hereunder or the rights granted by it to the other party under this Agreement.

20. **Covenants.** Licensee hereby covenants as follows:

(a) Licensee shall use the Facility strictly for the Authorized Use and such ancillary uses in connection with the Authorized Use. In no event shall Licensee violate the Facility's events restriction policy attached hereto as Exhibit C, as the same may be amended or updated from time-to-time. Licensee shall comply with the Facility's rules and regulations, which shall be provided to Licensee upon execution of this Agreement. All updates or amendments to the events restriction policy or the rules and regulations shall be communicated to Licensee in writing.

(b) Licensee shall comply with all legal requirements which arise in respect of the Facility and the use and occupation thereof, including obtaining all necessary permits and approvals.

(c) Licensee shall not cause or permit any Hazardous Material to be used, stored, or generated on, or transported to or 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 Law.

(d) The following items are prohibited within any areas of the Facility without written permission by SMG:

1. Propane and propane powered vehicles, equipment and displays.
2. Fireworks or other incendiary devices.
3. Guns, knives, electronic shock devices, chains, clubs or other weapons that could be used to harm another individual or property.
4. Sticks or poles.
5. Projectiles (including beach balls and Frisbees)
6. Lit cigars, cigarettes, e-cigarettes, or the like.

7. Controlled substances of any kind unless pursuant to a doctor's prescription.
8. Oversized bags (maximum 12"x16"x12"), backpacks, or boxes (except through the load docks in accordance with the load-in/load-out procedures).
9. Cans, bottles, coolers or other similar containers.
10. Helium or other lighter than air filled balloons.
11. Recording devices (video, audio or photographic) for the intent to distribute or to re-sell.
12. Laser pens or other laser light-type pointing devices.
13. Skateboards. Skates (roller or in-line) or scooters.
14. Noisemaking devices (horns, whistles, etc.)
15. Umbrellas (non-retractable).
16. Strollers (except in designated areas).
17. Any other items designated by SMG from time-to-time.

(e) Licensee shall not advertise, paint, post, distribute or exhibit, nor allow to be advertised, painted, posted, distributed or exhibited, signs, advertisements, show bills, lithographs, posters, banners, stickers or cards of any description inside or outside or on any part of the Facility except upon written permission of SMG, and for such time and in such location as designated by SMG. Licensee shall take down and remove forthwith all signs, advertisements, show bills, lithographs, posters or cards of any description objected to by SMG.

(f) Licensee shall not cause or permit food or beer, wine, or liquors of any kind to be sold, given away, or used upon the Facility except upon prior written permission of SMG.

(g) Licensee shall not operate any equipment or materials belonging to SMG without the prior written approval of SMG.

(h) Licensee, its officers, employees, agents, members or other representatives shall not re-sell admission tickets to the general public except as otherwise provided for herein, nor shall they re-sell the tickets for an amount greater than the face value (otherwise known as "scalping"), to the extent prohibited by applicable Law. Licensee and its representatives shall aid SMG in its efforts to control and prevent such ticket "scalping".

(i) 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 exit ways shall be maintained in such manner as to be visible at all times. Licensee shall defend, indemnify and hold the Licensee Indemnified Parties harmless from any loss or damage suffered by such parties resulting from Licensee's failure to comply with the terms of this Section 20(i).

(j) No collections, whether for charity or otherwise, shall be made, attempted, or announced at the Facility, without first having made a written request and received the prior written consent of SMG. In the event donations or collections are granted by SMG in lieu of an admission ticket, then all such monies received from such collections or donations will be considered as ticket

revenues for the purpose of determining the License Fee due to SMG unless an alternative or flat license fee has been agreed upon.

(k) The Facility is a smoke-free facility. Smoking is not allowed in any area of the Facility, including, without limitation, dressing rooms, production offices and backstage areas.

(l) With respect to any Event at the Facility, Licensee shall comply fully with all Laws and the 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 Licensee 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 Licensee agrees hereby to make all such payments to third parties and/or clearinghouse agencies as may be necessary to lawfully perform, publish, display or reproduce any such Works. Licensee specifically agrees, undertakes, and assumes the responsibility to make 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. Licensee agrees hereby to obtain and maintain evidence of such reports and any necessary payments, including evidence of compliance with the requirements of this paragraph. Licensee 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. Licensee agrees that the obtaining and maintaining of such evidence by Licensee is a material condition of this Agreement. Notwithstanding anything herein to the contrary, in the event Licensee fails to provide satisfactory evidence of the aforesaid compliance to SMG, SMG may, but is under no obligation to, in its absolute discretion, undertake the aforesaid compliance on behalf of the Licensee and to deduct all costs of such compliance from the Final Settlement with Licensee. Licensee agrees to indemnify, defend, protect and hold harmless SMG and all other Licensee Indemnified Parties of and from any and all manner of Losses arising in any way from the use by Licensee of proprietary intellectual property of third parties (whether such claims are actual or threatened) under the copyright or other Laws. The foregoing indemnity shall apply regardless of the means of publication, display, or performance by Licensee, and shall include specifically and without limitation the use of recordings, audio broadcasts, video broadcasts, Works on other magnetic media, sounds or images transmitted via the worldwide web, chat rooms, webcasts, or on-line service providers, satellite or cable, and all other publication, display or performance means whatsoever, whether now known or developed after the date of this Agreement.

(m) Motor vehicles being parked or stored in any area of the Facility during the Event cannot be running during any portion of the Event. All vehicles stored overnight must be approved by SMG in advance and SMG must obtain keys to these vehicles.

21. **Civil Rights Act.** During the performance of this Agreement, Licensee 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.

22. **Americans With Disabilities Act.** SMG shall be responsible for ensuring that access into the Facility complies with the Americans with Disabilities Act, as amended. SMG shall also be responsible for ensuring, to the extent possible, that the common areas inside the Facility (i.e., elevator access, ramp access and restrooms) are accessible to, and usable by,

individuals with disabilities. With respect to any Event at the Facility, Licensee recognizes that it is subject to the provisions of Title III of the Americans With Disabilities Act, as amended, and all similar applicable state, commonwealth and local Laws (collectively, the “ADA”). Licensee represents that it has viewed or otherwise appraised 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 Licensee’s responsibilities under the ADA. Licensee 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 Licensee modifies, rearranges or sets up in the Facility to accommodate Licensee’s usage. Licensee shall be responsible for any violations of the ADA, including, without limitation, those that arise from Licensee’s reconfiguration of the seating areas or modification of other portions of the Facility to accommodate Licensee’s usage. Licensee 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 comply with the requirements of the ADA.

23. **Use of Information.** Licensee 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.

24. **Construction of this Agreement.**

(a) **Choice of Law.** This Agreement shall be deemed to be made, governed by, and construed in accordance with all applicable Laws, without giving effect to the conflict of law principles thereof. Additionally, Licensee is subject to the rules and regulations of SMG for the governance and management of the Facility, together with all rules and regulations of the Fairfax County Police and Fire Departments, and if the attention of said Licensee is called to a violation of such rules and regulations on the part of Licensee, then said Licensee will immediately desist from and correct such violation.

(b) **Paragraph Headings.** The paragraph headings are inserted only as a matter of convenience and reference and are not intended to be a part of this Agreement or to define, limit, or describe the scope or intent of this Agreement or the paragraphs to which they refer.

(c) **Entire Agreement; Amendments.** This Agreement (including all Exhibits, riders and other documents and matters annexed hereto or made a part hereof by reference) contains all the representations, warranties, covenants, agreements, terms, provisions, and conditions relating to the rights and obligations of SMG and Licensee 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 the parties hereto. **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 LICENSEE 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 LICENSEE'S OWN DETERMINATION AND JUDGMENT.

- (d) **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.
- (e) **Time.** Time is of the essence hereof, and every term, covenant, and condition shall be deemed to be of the essence hereof.
- (f) **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 Licensee as are permitted to succeed to the Licensee's right upon and subject to the terms hereof.
- (g) **Independent Contractor; No Partnership.** SMG and Licensee 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 Licensee 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.
- (h) **Singular and Plural.** Whenever the context shall so require, the singular shall include the plural, and the plural shall include the singular.
- (i) **Conflict.** In the event of a conflict between the terms of this Agreement and any agreement between Licensee and Owner with respect to the use of the Facility, the terms of the agreement between Licensee and Owner shall govern and control.

25. Miscellaneous.

- (a) **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.
- (b) **Assignment.** Neither this Agreement nor any of the rights or obligations hereunder may be assigned, transferred, encumbered, hypothecated, or used as security in any manner whatsoever by Licensee without the prior written consent of SMG, which SMG may withhold in its sole discretion.
- (c) **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
7750 Capital One Tower Road
McLean, VA 22102
Attention: Dolly Vogt, Executive Director

with a copy to: SMG
300 Conshohocken State Rd., Suite 770
West Conshohocken, PA 19428
Attention: Director of Risk Management

If to Licensee: _____

Attention: _____

(d) Non-Exclusive Use. SMG shall have the right during the Event, in its sole discretion, to use on its own behalf, or permit the use by any person, firm or other entity, of any portion of the Facility, other than the Authorized Areas, regardless of the nature of the use of such other space. Unless otherwise specified on Exhibit A or another writing signed by the parties, SMG shall have the right to schedule other similar events both before and after the Event specified in this Agreement without notice to Licensee and without limitation.

(e) 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 nature; acts of terrorism; national emergency resulting from war; an order of the United States or the Commonwealth of Virginia ; bank regulatory compliance of Owner, fires; floods; epidemics; quarantine restrictions; strikes; labor disputes; failure of public utilities or unusually severe weather, prevents occupancy or use of the Facility as granted in this Agreement and the SMG and Licensee cannot reasonably agree upon a date to reschedule the Event or Events, this Agreement shall be terminated, and both parties shall be released from any damage so caused thereby, and Licensee hereby waives any claim for compensation or damages of any kind against SMG or the Owner in connection therewith. In the event of a termination of this Agreement under this Section 25(e), the terms of any agreement between the Licensee and Owner shall govern and control, to the extent applicable.

(f) Acts and Omissions of Third Parties. Subject to Section 17(b), 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 Ticketing Agency and Third-Party Contractors.

(g) Late Charge. If Licensee fails to pay any amounts when due under this Agreement, including, without limitation, under Sections 3 or 6, Licensee shall pay to SMG a late charge of 18% per annum on the unpaid balance from the date such costs were incurred.

(h) Parking. Public parking will be located on the Campus for the Licensee and its patrons, subject to availability and payment of posted rates. SMG shall attempt to resolve any Event parking issues in good faith to minimize disruption of the Event.

26. **New User.** If Licensee has not successfully completed the promotion of two prior Events at the Facility, then Licensee shall complete a Licensee Information Form, to be submitted with and made part of this Agreement. It is understood and agreed that this Agreement and the execution hereof by SMG evidencing SMG's agreement hereto, are contingent upon SMG's acceptance of such Licensee Information Form, in its sole discretion.

[Signatures on following page]

SAMPLE

IN WITNESS WHEREOF, this Use License Agreement has been duly executed by the parties hereto as of the day and year first written above.

SMG, a Pennsylvania general partnership

(“SMG”)

By: _____

Printed Name: _____

Title: _____

LICENSEE NAME HERE

(“Licensee”)

By: _____

Printed Name: _____

Title: _____

SAMPLE

EXHIBIT A TO USE LICENSE AGREEMENT

Event Information

| Day | Date | Authorized Areas | Time(s) | Purpose |
|------------|-------------|---|----------------|----------------|
| | | Main Hall, Orchestra and Star Dressing Rooms, One (1) Loading Dock Bay | TBA | |
| | | Main Hall, Orchestra and Star Dressing Rooms, One (1) Loading Dock Bay | TBA | |
| | | Main Hall, Orchestra and Star Dressing Rooms, One (1) Loading Dock Bay | TBA | |
| | | Main Hall, Orchestra and Star Dressing Rooms, One (1) Loading Dock Bay | TBA | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

EXHIBIT B TO USE LICENSE AGREEMENT

Reimbursable Service Expenses and Schedule for Payment of All Fees and Expenses

1. Estimate of Reimbursable Service Expenses. At the request of Licensee, the following special facilities, equipment, materials, and extra services will be furnished by SMG for the Event: **Will be provided once Event is advanced by Technical Director**
2. Schedule for Payments. Deposit of \$1,950.00 (one day's license fee) is due on or before **DATE HERE, TYPICALLY DUE 90 DAYS PRIOR TO LOAD IN**

SAMPLE

EXHIBIT C TO USE LICENSE AGREEMENT

Events Restriction Policy

[See Attached]

SAMPLE