

SAMPLE LICENSE AGREEMENT

**THE TERMS OF THE LICENSE AGREEMENT ARE SUBJECT TO CHANGE, BASED ON THE TYPE OF EVENT
PLEASE CONSULT YOUR SALES MANAGER FOR ADDITIONAL INFORMATION**

**SAN DIEGO CONVENTION CENTER CORPORATION
CONVENTION AND TRADE SHOW LICENSE AGREEMENT**
License #

SUMMARY OF BASIC TERMS

The following Basic Terms are incorporated into the License Agreement entered into by and between San Diego Convention Center Corporation, Inc., ("CORPORATION") and ("LICENSEE").

LICENSEE:

LICENSEE'S ADDRESS:

LICENSEE'S CONTACT:

CONTACT PHONE:

EVENT NAME:

EVENT LICENSE FEE: LICENSEE will pay \$_____ for this Event.

OTHER FEES:

CANCELLATION FEE: The cancellation fee payable pursuant to Section 7.1 is \$_____

LICENSE DUE: **IN ORDER TO CONFIRM YOUR SPACE, LICENSE FEE AND DATES, A COPY OF THIS AGREEMENT MUST BE EXECUTED AND RETURNED BY**

INSURANCE DUE: Insurance Certificates and Additional Insured Endorsements are due

PAYMENTS DUE:

SPACE, RATES & DATES SCHEDULE

<u>Facility Description</u>	<u>Time In</u>	<u>Move In</u>	<u>In Use</u>	<u>Event Days</u>	<u>Move Out</u>	<u>Time Out</u>	<u>Licensee Fee</u>
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This License Agreement ("Agreement") is entered into by and between the San Diego Convention Center CORPORATION, Inc., a California nonprofit public benefit CORPORATION with corporate offices located at 111 West Harbor Drive, in San Diego City and County, California ("CORPORATION") and [COMPANY NAME] with primary offices located at [COMPANY ADDRESS] ("LICENSEE"). CORPORATION and LICENSEE may each be referred to as a "Party" and collectively as the "Parties."

SECTION 1 GRANT OF LICENSE; LICENSE PERIODS

CORPORATION hereby grants to LICENSEE the exclusive right to use certain areas within the San Diego Convention Center and/or any other facility ("Facilities") as set forth in the Summary of Basic Terms, incorporated by this reference (the "Licensed Areas"). LICENSEE, its guests, exhibitors, patrons or invitees, shall have the exclusive right to use the Licensed Areas during the dates and times set forth in the Summary of Basic Terms (the "License Periods") in connection with the Event set forth in the Summary of Basic Terms. Event activity must be limited to In-Use days only. Any event activity, with the exception of move-in or move-out activity, taking place on a Move-in or Move-out day is subject to additional license fee. LICENSEE, its guests, exhibitors, patrons or invitees also shall have the non-exclusive right to use the restrooms and other areas in and adjacent to the Facilities (including but not limited to the Lobby area of the Facilities, and the outside areas adjacent to and surrounding the Facilities) that are available for public or common use ("Common Areas") for ingress and egress to the Licensed Areas. LICENSEE acknowledges that neither it, nor its attendees, exhibitors, contractors, patrons or invitees of any kind may use the Common Areas for marketing, promotion, exhibition or any other use, unless expressly permitted, and under such terms and conditions as set forth, by CORPORATION. Notwithstanding the foregoing, LICENSEE may use Common Areas for registration, coat check, baggage storage and other similar administrative or convenience services, subject to reasonable conditions and restrictions placed on such use by CORPORATION.

LICENSEE understands and agrees that this Agreement is a license for use of the specified Licensed Areas and Common Areas, and an agreement for services, and that it is not and does not constitute a lease or other rental agreement that would confer on LICENSEE any rights as a tenant under California landlord-tenant laws, including any rights to prior notice or cure under such laws, and LICENSEE's right to occupy and use the Licensed Areas, common areas and services may be terminated in accordance with the terms set forth in this Agreement.

In the event LICENSEE's use of the Licensed Areas commences prior to or extends beyond the time periods set forth in the Summary of Basic Terms, the License Periods shall be deemed to include such time periods and all terms and conditions of this Agreement shall apply to the extended periods. CORPORATION may charge an additional license fee for such extended use.

SECTION 2 SERVICES

2.1 Exclusive Services If any of the following services are required by LICENSEE in connection with its Event and/or use of the Licensed Areas or the Facilities, those services shall be provided exclusively by CORPORATION or providers under contract with CORPORATION ("Contract Providers"): Telecommunications/Data/Fiber/Internet; Security in the front driveway, loading dock areas and the facility perimeter; Sound (In-house system); Rigging Points; Food and Beverage/Novelties/Concession Sales/Exhibitor Booth Catering (except novelties and merchandise germane to the Event as approved by CORPORATION); Business Service Centers in Public Areas; Ticket Taker Staffing; and all Cleaning Services.

LICENSEE shall pay Ancillary Services Fee for exclusive services provided by CORPORATION.

LICENSEE shall have separate written contracts for exclusive services provided by Contract Providers and shall pay for such services in accordance with the terms and conditions therein.

2.2 Approved Services LICENSEE may obtain non-exclusive services it requires from its own providers ("Service Contractors") in accordance with Section 8.4.

2.3 Additional Services CORPORATION may provide non-exclusive services, equipment, materials, and staffing, upon LICENSEE's request, subject to its Regulations and the availability of inventory and staffing. LICENSEE shall pay an Ancillary Services Fee for such additional non-exclusive services.

SECTION 3 LICENSE FEE; ANCILLARY SERVICES FEE; PAYMENT

3.1 License Fee LICENSEE shall pay CORPORATION the License Fee set forth in the Summary of Basic Terms.

3.2 Ancillary Services Fee In addition to the License Fee, LICENSEE shall pay for services provided by CORPORATION, to the extent used by LICENSEE, at the rates in effect on the first day of the Event. CORPORATION may in its discretion require payment of deposits on the Ancillary Services Fee prior to LICENSEE's Event.

3.3 Payment The License Fee is due and payable upon execution of this Agreement. Alternatively, incremental deposits shall be made on the dates and in the amounts set forth in the Summary of Basic Terms. All deposits are non-refundable unless this Agreement is canceled pursuant to the Force Majeure provision in Section 7.2. Any unpaid License Fee, Ancillary Services Fee, or other amounts owed to CORPORATION are due and payable upon presentation of an invoice to LICENSEE. Invoices that remain unpaid after thirty (30) days shall accrue interest on the unpaid balance at the rate of one and one-half percent (1.5%) per month. All accounts turned over for collections or legal pursuits are charged reasonable collection costs/attorney fees.

SECTION 4 REGULATIONS

LICENSEE agrees to comply with CORPORATION's Regulations in existence as of the date of this Agreement or as amended thereafter, all of which are incorporated herein and made a part hereof by this reference) governing the use of the Facilities and acknowledges receipt of a copy of the same via access through CORPORATION's website. LICENSEE understands these Regulations may be amended prior to LICENSEE's Event and agrees to comply with any such amendments. CORPORATION will use its best reasonable efforts to provide written notice to LICENSEE of any such changes, but LICENSEE acknowledges and agrees that it retains the responsibility to keep itself apprised of the current Regulations.

SECTION 5 INDEMNIFICATION; INSURANCE

5.1 Indemnification LICENSEE shall indemnify, hold harmless and defend the CORPORATION, CITY OF SAN DIEGO, SAN DIEGO UNIFIED PORT DISTRICT, and their respective members, officers, directors, agents and employees from and against any and all claims, suits, damages, actions, costs, and expenses (including reasonable attorneys' fees) arising out of or connected with, whether directly or indirectly, LICENSEE's operations on or in the Facilities, or the use or occupancy of the Facilities by LICENSEE, its employees, agents, contractors, patrons, guests, exhibitors, licensees, invitees or any other person entering the Facilities with the implied or express permission of LICENSEE, unless the claim or suit arises out of the sole negligence or willful misconduct of the parties to be indemnified, their employees or agents.

5.2 Insurance Notwithstanding the indemnification requirements of Section 5.1, LICENSEE shall, at its sole cost and expense, procure and maintain the following types and limits of insurance, containing the additional insured endorsements and cancellation clause set forth herein. At a minimum, said insurance coverage shall be in effect from 12:01 a.m. on the first day of the License Period to 11:59 p.m. on the last day of the License Period. In the event the License Period is extended, as provided in this Agreement, then the period of coverage shall be extended to cover the extended License Period. LICENSEE shall deliver certificates of insurance evidencing the following coverage and endorsements on or before the date set forth in the Summary of Basic Terms:

- (1) **Commercial General Liability** policy with coverage as broad as ISO CG0001 in the occurrence form providing coverage against claims for bodily injury or death and property damage occurring in or upon or resulting from LICENSEE's use or occupancy of the Facilities. Such insurance shall be primary and not require contribution from any of the additional insureds other insurance coverages, and shall afford immediate defense and indemnification, as named additional insureds, to CORPORATION, the CITY OF SAN DIEGO and SAN DIEGO UNIFIED PORT DISTRICT, to the limit of not less than TWO MILLION DOLLARS (\$2,000,000.00) per occurrence;
- (2) **Automobile Liability** insurance (providing scope of coverage equivalent to ISO policy form CA 0001) with limits of not less than TWO MILLION DOLLARS (\$2,000,000.00) for bodily injury and property damage, in combined or equivalent split limits, for each single accident. Insurance shall cover liability arising out of LICENSEE's use of vehicles in connection with this License Agreement, including owned, leased, hired, and/or non-owned autos, as each may be applicable; and,
- (3) **Worker's Compensation Insurance** as required by law.

All insurance policies provided by LICENSEE in satisfaction of this Section 5.2, other than Worker's Compensation insurance, shall include the following **additional insured endorsement** language:

SAN DIEGO CONVENTION CENTER CORPORATION, INC., CITY OF SAN DIEGO, SAN DIEGO UNIFIED PORT DISTRICT, AND THE MEMBERS, OFFICERS, DIRECTORS, AGENTS AND EMPLOYEES OF EACH OF THESE THREE ENTITIES ARE NAMED AS ADDITIONAL INSURED.

Should any of the above-described policies be cancelled before the expiration date thereof, LICENSEE will promptly provide written notice to the CORPORATION, as soon as LICENSEE becomes aware of the cancellation. If directed by CORPORATION, LICENSEE shall immediately obtain substitute insurance, acceptable to CORPORATION in its sole discretion and evidenced by an appropriate certificate, within ten (10) days of the cancellation, but in no event later than the first (1st) Move-In date.

The parties agree and LICENSEE understands that the specified coverage or limits of insurance in no way limit the liability of the LICENSEE. LICENSEE shall maintain, with respect to each such policy or agreement, evidence of such insurance coverage and endorsements required by this Agreement.

5.3 Failure to Comply with Section 5.2 Requirements Failure to comply with the insurance requirements of Section 5.2 shall be considered a material breach of this Agreement. In the event LICENSEE fails to provide the required certificates of insurance by the due dates, CORPORATION shall have the right to proceed under the terms of Section 6.

SECTION 6 BREACH; RIGHT TO CURE; REMEDIES

In the event LICENSEE fails to perform or comply with any of the material covenants or provisions of this Agreement, CORPORATION shall provide LICENSEE written notice to cure the default within a commercially reasonable time, as determined by CORPORATION, **except** notice and time to cure shall not be required when the breach involves public safety, immediate waste or damage to the Facilities or CORPORATION’s equipment. If LICENSEE fails to timely cure the default or if the breach involves public safety or property damage or waste, CORPORATION shall have the right, without further notice, to invoke any or all of the following remedies:

- (1) require additional security from or for LICENSEE;
- (2) terminate this Agreement and revoke the License granted hereunder;
- (3) enter and take possession of the Licensed Areas and remove all persons and property, without instituting any legal proceedings;
- (4) withhold all payments made to CORPORATION and apply the same to offset CORPORATION’s compensatory or liquidated damages; and,
- (5) institute legal proceedings to recover damages.

SECTION 7 CANCELLATION BY LICENSEE; LIQUIDATED DAMAGES; FORCE MAJEURE

7.1 Cancellation; Liquidated Damages If LICENSEE cancels its Event, its use of some portion of the Licensed Areas, some portion of its License Periods, or terminates this Agreement for any reason other than those set forth in Section 7.2, deposits paid shall be forfeited and applied to offset CORPORATION’s Liquidated Damages as provided herein.

The parties agree that the damages to CORPORATION resulting from cancellation of the Event or any portion of the Licensed Areas or License Periods, or termination of this Agreement, would be extremely difficult to determine because of the loss of revenue from ancillary and other services anticipated by this Agreement. Because of this difficulty in determining the resulting damages, the parties agree that, in the event of cancellation or termination, LICENSEE shall pay to CORPORATION Liquidated Damages in the amount set forth below as determined by the type of cancellation and the proximity of the cancellation date to the Event Move-In date. LICENSEE agrees to pay the Liquidated Damages to CORPORATION within thirty (30) days of notice of cancellation.

LIQUIDATED DAMAGES PAYABLE UPON CANCELLATION OF EVENT

<u>Event Move-in Date from Cancellation Date</u>	<u>Amount of Liquidated Damages</u>
2 to 5 years	50% of Cancellation Fee
Less than 2 years	100% of Cancellation Fee

LIQUIDATED DAMAGES PAYABLE UPON PARTIAL CANCELLATION (LICENSED AREAS AND/OR LICENSE PERIODS)

<u>Event Move-in Date from Cancellation Date</u>	<u>Amount of Liquidated Damages</u>
2 to 3 years	50% of License Fee for the canceled Licensed Area or License Period
Less than 2 years	100% of License Fee for the canceled Licensed Area or License Period

If CORPORATION is able to obtain replacement business, LICENSEE shall be entitled to an offset in the amount of the replacement license fee, against the amount of liquidated damages, up to but not to exceed the Cancellation Fee. Replacement business means new events that are booked to use the canceled space (or other space made available by the cancellation) and dates, or events already booked in the Facilities that expand to use the canceled space and dates. Events that are already booked in the Facilities that move from their previously-licensed space into LICENSEE’s canceled space and dates shall not be considered replacement business.

7.2 Force Majeure Either party may terminate or suspend its obligations under this Agreement if such obligations are delayed, prevented or rendered impractical as a result of fire, flood, riot, earthquake, casualty, civil commotion, Act of God, or any law, ordinance, rule or regulation which becomes effective after the date of this Agreement, provided and to the extent such occurrence is beyond the reasonable control of the party whose performance is affected. In such event the affected party shall not be liable to the other for delay or failure to perform its obligations, except there shall be a pro rata reduction in any fees payable or otherwise due under this Agreement and/or a refund of any deposits paid.

SECTION 8 LICENSEE'S RIGHTS AND OBLIGATIONS

8.1 Inspection LICENSEE shall have the right to inspect the Facilities and the Licensed Areas prior to executing this agreement to determine that they are reasonably suited for the uses contemplated by LICENSEE. LICENSEE shall have the right to a joint inspection prior to and after the License Period to assess the condition of the Facilities and the Licensed Areas and to determine damage, if any, resulting from LICENSEE's activities. CORPORATION warrants that the Facilities and Licensed Areas will be in a suitable condition for the uses contemplated by the LICENSEE during the Licensed Periods.

8.2 Compliance with Laws Each party shall promptly comply and cause its agents, servants, employees, contractors, patrons, guests, licensees or invitees to promptly comply with all applicable laws, ordinances, rules, and regulations of all federal, state, county and city governments, departments, commissions, boards and officers.

8.3 Licenses and Permits LICENSEE shall obtain any licenses and permits required by federal, state, county, or city laws in connection with its Event and shall permit inspection by appropriate agencies or departments.

8.4 Service Contractors At least thirty (30) days prior to the beginning of License Period, LICENSEE shall submit to CORPORATION a list of all persons or entities who will provide a service to or on behalf of LICENSEE during the License Period (herein "Service Contractors"). CORPORATION may require its approval of certain Service Contractors prior to services being rendered, which such approval shall not be unreasonably withheld or delayed.

8.5 Non-discrimination LICENSEE acknowledges and understands that CORPORATION has a comprehensive policy of non-discrimination in all aspects of its business activities. LICENSEE agrees that, in connection with its Event and its use of the Facilities and Licensed Areas, neither LICENSEE, nor its agents, employees, exhibitors or contractors, shall discriminate against any person with respect to employment, contracting, admission, or services or privileges offered to attendees of LICENSEE's Event, in violation of federal, state or local laws.

8.6 Defacement of Facility; Damage to Equipment LICENSEE shall pay the actual cost to replace, repair and/or restore, in CORPORATION's discretion, any part of the Facilities or CORPORATION's equipment (ordinary wear and tear excepted) that was defaced or damaged by LICENSEE, its agents, employees, exhibitors, or invitees. Payment shall be made within thirty (30) days of written demand by CORPORATION.

8.7 Payment of Taxes LICENSEE acknowledges and understands that state and/or local taxing authorities may impose a tax or other assessment on LICENSEE's use of the Facilities (a possessory use tax) and that LICENSEE shall be solely liable for payment of this, and any other taxes levied on its use of the Facilities.

8.8 Sale of Novelties and Merchandise Notwithstanding CORPORATION's exclusive rights with respect to the sale of novelties and merchandise, LICENSEE may distribute or sell items that are specifically germane to the nature or purpose of LICENSEE or its Event, as determined by CORPORATION, provided CORPORATION's prior written approval is obtained, which such approval shall not be unreasonably withheld or delayed.

8.9 Post-event Housing Reports LICENSEE acknowledges and understands CORPORATION's interest in having accurate housing information associated with LICENSEE's Event. Within thirty (30) days of CORPORATION's written request, LICENSEE will provide to CORPORATION housing information, including the final hotel room night usage and/or the final housing report, as provided by LICENSEE's official housing provider for the event.

SECTION 9 RIGHT OF ENTRY; EJECTION OF DISORDERLY PERSONS; SECURITY

9.1 Corporation's Right of Entry and Control The Facilities, including the Licensed Areas, shall at all times be under the charge and control of the CORPORATION, whose duly authorized representatives shall have unfettered access to, and the right to enter, all areas in the Facilities including the Licensed Areas at any time, provided such entry does not interfere with LICENSEE's use. The CORPORATION's duly authorized representatives also shall have the unfettered right to inspect the Licensed Areas at any time to ensure that LICENSEE's use of such areas is in accordance with this Agreement and the regulations applicable to the Facilities. In the event that the CORPORATION determines that LICENSEE is violating the Agreement or such regulations, the CORPORATION shall have the right to require LICENSEE's compliance pursuant to the provisions of Section 6 of this Agreement.

9.2 Ejection of Disorderly Persons CORPORATION shall have the right to refuse entrance to, or remove and eject from the Facilities, any person associated with LICENSEE or present at LICENSEE's Event whose conduct is objectionable, disorderly, disruptive, or in violation of any law. The indemnification provisions of this Agreement shall apply to any claim or cause of action arising from such ejection.

9.3 Security Levels CORPORATION shall be the provider of security in the front driveway, loading dock areas and for the facility perimeter. The LICENSEE may be required to contract for event security staffing within Licensed Areas. All security or staffing contractors hired by LICENSEE for event related security must be approved by CORPORATION in advance of providing services within the Facilities, which such approval shall not be unreasonably withheld or delayed. CORPORATION shall have the sole right to determine the minimum level of all security required for LICENSEE'S Event. All security and staffing plans must be submitted to the CORPORATION at least thirty (30) days prior to Move-in for approval.

SECTION 10 GENERAL PROVISIONS

10.1 Abandoned Equipment and Lost or Misplaced Articles Any equipment or personal property belonging to LICENSEE, its agents, servants, employees, contractors, invitees, patrons or guests, which remains in the Facilities or the Licensed Areas after the License Period, shall be deemed abandoned and may be disposed of by CORPORATION at LICENSEE's sole expense. CORPORATION shall assume no responsibility for losses caused by theft, disappearance or abandonment of equipment or personal property.

10.2 Applicable Law, Venue and Jurisdiction This Agreement shall be governed by and construed in accordance with California law. Any action by a party to this Agreement to enforce or interpret the terms hereof shall be maintained in the San Diego County Superior Court or the Federal District Court for the Southern District of California. LICENSEE consents to the foregoing and agrees that this Agreement has been entered into in the State of California which constitutes sufficient minimum contacts with CORPORATION to permit the Courts of California to assert jurisdiction over LICENSEE in any action brought by CORPORATION.

10.3 Attorneys' Fees The prevailing party in any action or proceeding brought to enforce or interpret any provision of this Agreement or to recover damages resulting from breach shall be awarded reasonable attorneys' fees in addition to any other remedy.

10.4 Delivery of Notices Subject to any provision to the contrary, any statement, notice, request, demand, consent or approval under this Agreement must be in writing and personally delivered, sent via email, sent by overnight courier service, or sent by United States registered or certified mail, postage prepaid, return receipt requested and shall be deemed to have been given upon the date of personal delivery, the date the email was sent by sender, the next business day following deposit with an overnight courier or five (5) days after deposit in the United States mail, provided that in the case of communications sent by overnight courier service or United States registered or certified mail, the communication is addressed to the respective parties at the following addresses (either party may, by written notice, designate a different address):

To CORPORATION: San Diego Convention Center Corporation
Attention: President & CEO
111 West Harbor Drive
San Diego, California 92101

To LICENSEE: At the address set forth in the Summary of Basic Terms

10.5 Partial Invalidity If any provision of this Agreement is declared invalid or unenforceable, the remaining provisions shall continue in full force and effect to the fullest extent permitted by law.

10.6 Assignment; Subletting Licensed Areas LICENSEE shall not assign this Agreement or any right, obligation or interest herein or permit the use of the Licensed Areas or any part thereof by any other party, except that LICENSEE shall have the right to permit its exhibitors to use the Licensed Areas in conjunction with LICENSEE's Event. Any substantive change in the nature of LICENSEE's Event, without CORPORATION's prior written consent, shall constitute a material breach of this Agreement.

10.7 Americans with Disabilities Act (ADA) CORPORATION acknowledges and agrees that it is responsible for complying with the ADA requirements for the permanent building access accommodations such as, but not limited to, permanently installed wheelchair ramps, elevator standards, permanent seating accessibility, door width standards and rest room accessibility. LICENSEE acknowledges it is responsible for complying with ADA non-permanent accessibility requirements such as, but not limited to, accessibility of non-permanent seating and auxiliary aids for the visually impaired, hearing impaired and mobility impaired.

10.8 Right to Quiet Enjoyment CORPORATION warrants that the Licensed Areas shall be operational and free from any substantial interference or disturbance directly related to any construction work on the Facilities. In the event construction causes a substantial interference with LICENSEE's Event, CORPORATION shall use its best efforts to mitigate any disruption. In no event, however, will CORPORATION be liable for any consequential damages to LICENSEE, including claims for lost or reduced income resulting from the interference or disturbance. CORPORATION's liability, if any, shall be limited to a return of the License Fee for any period of time that LICENSEE is unable to use the Licensed Areas because of the interference or disturbance.

10.9 Survival The indemnification provisions set forth in this Agreement and all provisions hereof which by their terms must necessarily be performed after the termination of this Agreement or expiration of the License Period shall survive such termination or expiration.

10.10 Amendments to Agreement This Agreement constitutes the entire agreement between the Parties respecting the subject matter of this Agreement, superseding and replacing all prior agreements, oral or written, between the Parties relating to the subject matter hereof, and the Parties agree there are no promises, agreements, conditions, undertakings, warranties or representations, oral or written, expressed or implied, between them, other than as set forth herein. This Agreement may not be amended or modified except in writing signed by the Parties; provided however that if LICENSEE requests (orally or in writing) an amendment to any of the terms set forth in the Summary of Basic Terms and CORPORATION agrees to such change and confirms the change in writing to LICENSEE, said change shall be incorporated into this Agreement and have the same effect as a signed amendment hereto.

10.11 Counterparts; Facsimile or Scanned Signatures This Agreement may be signed in counterparts, and the counterparts taken together shall be deemed an original executed Agreement. A signature may be delivered to the parties by fax or scanned and e-mailed document, and such fax or scanned signature shall be accepted and effective as an original signature.

10.12 Effective Date of Agreement The effective date of this Agreement shall be the date it is executed by the CORPORATION.

[COMPANY NAME]

SAN DIEGO CONVENTION CENTER CORPORATION

By: _____
[Authorized by LICENSEE to execute this Agreement on its behalf]

By: _____

Name: _____

Title: _____

Date: _____

Date: _____

Approved as to form by Corporation's General Counsel