

**LEASE AGREEMENT BY AND BETWEEN  
THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY  
AND**

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This lease is made and entered into this \_\_\_ day of \_\_\_\_\_, 2012, by and between the Metropolitan Government of Nashville and Davidson County ("Metropolitan Government"), acting through the Metropolitan Board of Fair Commissioners ("Fair Board"), and \_\_\_\_\_ ("Lessee").

1. **Lease content.** This Lease consists of this document.
  
2. **Leased Premises.** Fair Board leases to \_\_\_\_\_ the following portions of the property known as the Tennessee State Fairgrounds: the Racetrack, Grandstand, Back Offices and Front Offices on the Tennessee State Fairgrounds, subject to the exceptions, terms and conditions stated in this Lease (hereinafter the "Leased Premises"). All other portions of the Tennessee State Fairgrounds will remain under the exclusive control of the Fair Board.
  
3. **Definitions.**
  - a. "Tennessee State Fairgrounds" means the plot of land in Nashville consisting of approximately 115.7 acres granted to Davidson County in three separate conveyances and of record in Book 410, Page 385, Register's Office for Davidson County; Book 658, Page 663, Register's Office for Davidson County; and Book 1495, Page 91, Register's Office for Davidson County, all of which property has been placed under the control of the Board.
  
  - b. "Racetrack" means the paved oval road approximately five-eighths (5/8) of a mile in length, including a one-quarter (1/4) mile in length paved tract located within the 5/8 mile oval road located on the Tennessee State Fairgrounds, including the infield and other margin within the fenced-in boundary thereof.
  
  - c. "Grandstand" means the public seating arena located adjacent to the Racetrack, including the roof thereon, and extending to the fence located along the easterly margin of the access road which runs behind the seating area and specifically excluding said access road.
  
  - d. "Offices" means the office complex located on the second floor of the Grandstand Building which lies immediately behind and adjacent to the topmost public seats in the Grandstand. Excepted from the premises leased herein is the suite of office and meeting rooms generally located in the northeastern end of the second floor of the Grandstand building and currently occupied by the Fair Board as its executive offices.

The offices leased herein are divided into two sections, the "Front Offices" and the "Back Offices." The Front Offices consist of a row of offices and rooms located along the front of the Grandstand building, all of which have windows looking out over the Racetrack and the public seating area of the Grandstand on one side and the opposite side of which offices and rooms open into a hall or corridor which runs the length of the premises leased herein and ends at the door to the Fair Board's executive offices. The Front Offices presently include a sound room for control of the Grandstand loudspeaker system, a switchboard room, a multiple use room, and executive office and a large room known as the "press room." The Back Offices are generally located on the opposite side of said hall or corridor from the Front Offices and include several private offices and a room with a door facing the top of the stairway and built as a public room with a waiting area and counter.

Lessee will have the exclusive right to occupy the Back Offices throughout the term of the lease. Lessee will have the right to occupy the Front Offices from March 1 through November 30 of each year, with the exception of the dates when the Fair Board requires use of the space for the annual Tennessee State Fair, on which dates the use of the Front Offices shall revert to the Fair Board. The dates when the Fair Board requires use of the space will include a reasonable number of days before and after the Tennessee State Fair for set up and break down time.

- e. "Fair Board" means the Metropolitan Board of Fair Commissioners, created and existing under Section 11.601 of the Charter of The Metropolitan Government of Nashville and Davidson County, or its authorized management representatives.
  - f. "Race Event" means any competitive automobile racing event.
  - g. "Evening Race" means any Race Event that continues beyond 7 pm.
  - h. "Day Race" means any Race Event that ends before 7 pm.
4. **Use of Leased Premises.** The Leased Premises are leased to LESSEE to promote and conduct motor racing of any type as well as auto fairs, auto festivals, musicals, concerts, auto conventions, driving schools, TV commercials and/or print advertising shooting locations, motion pictures and TV programming. "Motor racing" is defined as the racing of motorized vehicles. Events other than these require the prior written permission of the Fair Board.
5. **Term.** The term of this Lease will begin \_\_\_\_\_, 2012 and will end on \_\_\_\_\_, 2012. However, during the dates when the Fair Board requires use of the Leased Premises for the annual Tennessee State Fair and the October Flea Market the use of the Leased Premises will revert to the Fair Board except as otherwise permitted in this lease agreement or agreed to by the Director of the Fairgrounds and Lessee prior to these events.

6. **Rent.**

- a. Lessee may conduct no more than \_\_\_\_\_ Race Events per year. \_\_\_\_\_ of the \_\_\_\_\_ Race Events must coincide with the operation of the Flea Market held on the Fairground property.
- b. Lessee must pay \$ \_\_\_\_\_ per Evening Race event for use of the Racetrack and Grandstands for Friday, Saturday and Sunday. This cost shall be paid fifteen (15) calendar days prior to such an event. With the exception of the All American 400 which must end by 11:30 pm, all Evening Race events may last beyond 7 pm but must end by 10:30 pm. Lessee may not conduct more than \_\_\_\_\_ Evening Race events in a calendar year. \_\_\_\_\_ of the \_\_\_\_\_ Evening Race events must occur during the Tennessee State Fair.
- c. Lessee must conduct \_\_\_\_\_ Day Races. Lessee must pay \$1.00 per ticket sold for all Day Race events for use of the Racetrack and Grandstands for Friday, Saturday and Sunday. Day Race events must end by 7 pm. Lessee may not give away more than 1400 tickets to any Day Race.
- d. Practice sessions may only occur on Monday, Tuesday, Wednesday, Thursday and Friday from 1 pm to 6 pm. These standards notwithstanding, use of the Racetrack or Grandstand during times when school is in session will **only** be allowed by specific written permission of the Executive Director of the Fairgrounds.
- e. Lessee must pay \$1.50 to the Fair Board for each ticket sold for admission to any event held in the month of October.
- f. Lessee must pay \$750.00 per month for the term of the lease for use of Offices and fixtures. Utilities, other than phone service and internet service, are included in the lease of the Offices. Lessee will also have use of the public address system and scoring equipment.
- g. Lessee must pay \$250.00 per day for use of the Racetrack and Grandstand lights during any event regardless of the duration of the use.
- h. Lessee must pay \$75.00 per hour for any other type use of the Racetrack or Grandstand including but not limited to ride-a-long events and open practice. The Fair Board can waive this fee for non-motorized events by non-profits in either the Racetrack or Grandstand.
- i. Lessee must pay the Fair Board \$2.00 per sale of each tire sold and \$.10 per gallon of racing fuel sold.

- j. Lessee must pay 10% of the gross revenue generated from each billboard to the Fair Board.
- k. Lessee must pay to the Fair Board 10% of all sponsor revenue generated; however, the Fair Board must approve all agreements regarding naming rights.
- l. Lessee shall cooperate with the operators of the Tennessee State Fair and the Fair Board to promote and conduct three motor sport shows or races during the Tennessee State Fair.

7. **Maintenance.**

- a. Lessee must maintain the Leased Premises and must keep the Leased Premises in as good a condition as was the case when the contract began. The parties will jointly inspect the Leased Premises before and after each racing season. Any and all repairs necessary to restore the Leased Premises to as good a condition as when the contract began must be made by Lessee. Lessee must conduct a walk-through prior to taking possession of the premises. The walk-through is an opportunity for Lessee to familiarize itself with the premises. The Lessee shall keep the Grandstands in good condition and free of all vegetation. The Fair Board makes no representations of any nature in connection with the condition of the premises, and under no circumstances will the Fair Board be liable for any latent or patent defect therein. During this walk-through, the parties will update the “fixed asset list” attached.
  - b. The Racetrack and Grandstand will at all times be kept in a safe condition and repairs must be made by Lessee as necessary to assure their safe use and occupancy by the public.
  - c. The Fair Board is entitled to inspect all records and bills regarding maintenance expenditures upon reasonable notice.
8. **Improvements.** All permanent improvements made by Lessee will be and remain the property of Lessee until the expiration of the term of this Lease, or the termination of this Lease (whether by expiration of the term, cancellation, forfeiture, or otherwise, whichever first occurs), at which time said improvements, additions and alterations will become the property of the Fair Board; provided, however, that any trade fixtures, signs and other personal property of Lessee not permanently affixed will remain the property of the Lessee unless Lessee fails within ten (10) calendar days following the termination of this Lease to remove its trade fixtures, signs and other personal property used in connection therewith. If such trade fixtures, signs, and other personal property are not removed, the Fair Board may remove and charge Lessee any costs associated with the removal and storage of such items.

9. **Parking.**

- a. Lessee will have no claim to any funds collected for parking outside of the fees collected for parking in the area shown on Exhibit A during race events. The Fair Board will maintain control of all parking areas within the Fairgrounds other than the area shown on Exhibit A during race events and the Fair Board will collect all proceeds from parking fees for the benefit of the Fair Board outside of the area shown on Exhibit A during race events.
- b. Lessee will be granted exclusive use of designated and mutually agreeable portions of the parking facilities to be used as a “reserved parking area,” as shown on Exhibit A, during its race events, in conjunction with the sale of season passes and hospitality/sponsorship packages. Each party understands that at no time can Lessee’s use of the parking facilities interfere with the monthly flea market or the Tennessee State Fair.

10. **Merchandise.**

- a. Lessee has the exclusive right to sell any and all non-food or non-drink merchandise (for example, hats, t-shirts, novelties, programs) related to its operation of the Leased Premises.
- b. This merchandise must not reflect negatively upon the Metropolitan Board of Fair Commissioner or the Metropolitan Government. No merchandise may contain lewd references that are unfit for the family atmosphere of the Leased Premises or that would reasonably cause embarrassment to the Metropolitan Board of Fair Commissioner or the Metropolitan Government. On written notice from the Metropolitan Board of Fair Commissioner or the Metropolitan Government, Lessee agrees to remove any merchandise.

11. **Accounting.** Lessee must keep full and accurate books and records, in compliance with Generally Accepted Accounting Principles (GAAP), on an accrual basis, showing all of its revenue, and the Fair Board will have the right, through its representatives and at all reasonable times, to inspect all such records as may be necessary to verify the revenue reported. Lessee agrees that all such records will be kept and will be made available at a mutually agreed upon location for at least a three (3) year period after the termination of the lease. During this lease, all accounting books, records, and supporting documents must be stored within Davidson County, Tennessee.

12. **Annual Audit.** Lessee must submit a year-end financial statement, prepared by an independent Certified Public Accountant within sixty (60) calendar days of the last day of the preceding year. This Accountant must also furnish a written statement to the Fair Board giving his/her opinion regarding whether payments paid by Lessee to the Fair Board during the preceding year were made in accordance with this Lease. Such statement must also contain all revenue as shown on the books and records of Lessee that were used to compute

the percentage payments made to the Fair Board during the period covered by the statement. These statements will be prepared at Lessee's expense. If these statements reveal that the Lessee owes money to the Fair Board, the payment must be made within thirty (30) days of the statement being submitted.

13. **Board Audit.** The Fair Board reserves the right to audit Lessee's books and records of revenue at any time for the purpose of verifying the revenue, whereby the cost of said audit will be split equally (50%-50%) between Lessee and the Fair Board. If the audit establishes that Lessee has understated the revenue received by it from all operations by two percent (2%) or more (after the deductions and exclusions provided for herein) during any previous annual reporting period under this Lease, the entire expense of said audit must be paid by Lessee. Any additional revenue due must within 30 days be paid by the Lessee to the Fair Board with interest thereon at the maximum allowable rate per annum established from the date such additional percentage fee became due. Establishment by audit that Lessee has understated the revenue received by it from all operations by two percent (2%) or more for any contract year or part thereof will be an event of default by Lessee and the procedures and remedies of paragraph 30 shall apply.
  
14. **Non-Discrimination.** It is the policy of the Metropolitan Government not to discriminate on the basis of age, race, sex, color, national origin or disability in its hiring and employment practices, or in admission to, access to, or operation of its programs, services, and activities. With regard to all aspects of this contract, Lessee certifies and warrants it will comply with this policy. No person shall be excluded from participation in, be denied benefits of, be discriminated against in the admission or access to, or be discriminated against in treatment or employment in Metro's contracted programs or activities, on the grounds of handicap and/or disability, age, race, color, religion, sex, national origin or any classification protected by federal or Tennessee State Constitutional or statutory law; nor shall they be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of contracts with Metro or in the employment practices of Metro's Contractors. Accordingly, all Proposers entering into contracts with Metro shall, upon request, be required to show proof of such nondiscrimination and to post in conspicuous places that are available to all employees and applicants, notices of nondiscrimination.
  
15. **Deposit.** Lessee will provide the Fair Board with \$5,000 in cash or by letter of credit or performance bond as a deposit to secure the faithful execution of the terms of this lease. The Fair Board, at its discretion, may use these funds to satisfy any payments or liquidated damages due under the Lease. If the Fair Board uses funds from this deposit to satisfy any payments or damages due under the Lease, no events may be held on the leased premises by the Lessee until the deposit is replaced to its original value by the Lessee. This deposit must accompany the executed copy of this agreement.
  
16. **Cooperation with the Fair Board.** Lessee will use its best efforts in the performance of its obligation and duties under this Lease. Lessee covenants that it will do nothing to interfere with the Fair Board's conduct of the Tennessee State Fair and/or all other events at

the Fairgrounds and will surrender all areas leased pursuant to this contract except the Back Offices during the time the operator of the Fair has use of the Fairground property. Further, Lessee binds itself, its successors and assigns to cooperate with the Fair Board toward the successful conduct of said events.

17. **Rescheduled Races.** If Race Events are canceled due to weather they may be rescheduled for dates approved by the Director of the Fairgrounds.
18. **Concessions and Hospitality.** Lessee must comply with any concession contracts entered into by Metropolitan Government. Lessee shall pay the Metropolitan Government 50% of all net concession sales performed by the Lessee. Should the Fair Board choose to control the sale of concessions at the leased premises, 50% of the net profits will be shared with the lessee.
19. **Alcohol Beverages.** Lessee will not allow alcoholic beverages to be brought onto the premises except as permitted by state and local laws.
20. **Right of Entry.** Fair Board may at reasonable time and on reasonable notice to Lessee enter the Leased Premises to inspect and to do any maintenance or make any repairs that Fair Board may elect to do. In addition, the Fair Board may enter for the purpose of improving the facility's accessibility for persons with disabilities. Lessee agrees to cooperate with the Fair Board's efforts for improving the facility's accessibility.
21. **Fairgrounds Neighborhood Advisory Committee.** Lessee must meet once a month during the months of May-October with the Fairgrounds Neighborhood Advisory Committee. The Committee will be made up of 2 representatives appointed by the Fair Board and one by the District Councilmember. An employee of the Fair Board must attend these meetings and keep minutes of the same. This Committee may **recommend** modifications to this lease to the Fair Board, including termination; however, the final resolution to any violation of the contract remains the duty of the Fair Board.
22. **Mufflers.** All motor vehicles on the Racetrack must have properly operating mufflers. All vehicles must operate mufflers that meet the standards set forth by the Lessee. Lessee will supply the Fair Board with specification for each muffler required for each series race before allowing any vehicle to operate on the Racetrack. Except for the requirement for the use of properly operating mufflers, the noise standards set forth in this agreement are not applicable for Race Events but do apply for all other times including practice times.
23. **Noise Restrictions.**
  - a. Noise levels will be monitored by the Fair Board.
  - b. During the period of the lease, **other than during Race Events**, decibel levels associated with the use of the Racetrack or Grandstand may not exceed 75 dbl between 10 AM and 5 PM on Monday- Friday and may not exceed 60 dbl at any

other time. These noise restrictions apply during practice sessions. These standards notwithstanding, use of the Racetrack or Grandstand during times when school is in session will **only** be allowed by specific written permission of the Executive Director of the Fairgrounds.

- c. Breach of this section will be deemed to be a material breach of the agreement for which cure is inadequate. In such event, the Lessee must pay liquidated damages to the Fair Board of \$2500 for the first violation of these standards and hold a community meeting at the offices of the Fair Board to explain why the violation occurred and what actions are necessary to avoid further violations. The second violation of these standards will be grounds for immediate termination of this Lease.
24. **Improvements.** Lessee must certify to the Metropolitan Government that any design services, as well as any construction, repair, or other infrastructure improvements made through this contract will be completed in full compliance with the Americans with Disabilities Act. In addition, all communication must be provided in accordance with the requirements of the Metro Code 2.212, titled Effective Communication with Individuals with a Disability. All such improvements and communications are subject to inspection by the ADA Compliance Division of the Metropolitan Government and Davidson County at any time and must be changed if this Division determines they do not comply with the above-referenced requirements.
25. **Fire or Other Casualty.** Should structural or permanent portions of the Premises be partially damaged by fire or other casualty, Lessee shall give immediate notice thereof to Lessor and the same shall be repaired at the expense of Lessor without unreasonable delay unless Lessor determines that the damage is so extensive that repair or rebuilding is not feasible. From the date of such casualty until such area is so repaired, monthly payments hereunder shall abate in such amount as may be reasonably determined by Lessor; provided, however, that if an area shall be so slightly injured in any such casualty as not to be rendered unfit for occupancy, the compensation hereunder shall not cease or be abated during any repair period. Should the damage to the area be so extensive as to render it untenable, the compensation for such area shall cease, on a pro-rata basis, until such time it shall again be put in repair, but in the event of the area being damaged by fire or other casualty to such an extent as to render it necessary in the exclusive judgment of Lessor not to rebuild the same, then, at the option of Lessor or Lessee, and upon ten (10) days' written notice to the other of the damage; otherwise this Lease, as it applies to said area, shall be canceled and of no further force or effect. Lessor's obligations to rebuild or repair under this Section shall in any event be limited to restoring said area to substantially the condition that existed prior to the commencement of improvements by Lessor.
26. **Surrender of Premises.** At the expiration of the term of this Lease, Lessee must peaceably yield up to Fair Board the Leased Premises in good repair in all respects, reasonable use, wear and tear and damage by fire or other casualty or by condemnation excepted.

27. **Holding Over.** There will be no holding over.

28. **Notices and Designation of Agent for Service of Process.**

- a) Notice of assignment of any rights to money due to Lessee under this agreement must be delivered to the attention of Metro's Chief Accountant, Division of Accounts, Department of Finance, by mail to P.O. Box 196300, Nashville, Tennessee 37219-6300, or hand delivered to Metropolitan Courthouse, Suite 106, Nashville, Tennessee, 37201, with a copy to the recipient for Metro notices listed below. All other notices to the Fair Board or the Metropolitan Government must be hand delivered to the offices of the Fair Board or mailed to:

**Department:** Tennessee State Fairgrounds  
**Att'n:** Director  
**Addr:** Post Office Box 40208  
Nashville, TN 37204

- b) Notices to Lessee must be mailed or hand delivered to:

**Lessee:**  
**Att'n:**  
**Addr:**

- c) Lessee designates the following as the Lessee's agent for service of process and will waive any objection to service of process if process is served upon this agent:

**Designated Agent:**  
**Att'n:**  
**Addr:**

29. **Risk of Loss and Insurance.** All property of any kind that may at any time be used, left or placed on the Premises during the term of this Lease shall be at the sole risk of the Lessee, and Fair Board will not provide any insurance coverage for same. Lessee must at its sole expense obtain and maintain in full force and effect for the duration of the Agreement and any extension hereof at least the following types and amounts of insurance for claims which may arise from or in connection with this Agreement.

1. *Commercial General Liability Insurance*; occurrence version commercial general liability insurance or equivalent form with a limit of not less than \$5,000,000 each occurrence Such insurance

must include Metro, its officials, officers, and employees as insureds with respect to performance of services. The coverage may not contain any special limitations on the scope of its protection afforded to the above-listed insureds. Insurance will be primary with respect to any insurance or self-insurance programs covering Metro, its officials, officers, employees, and volunteers.

2. *Automobile Liability Insurance*; including vehicles owned, hired, and non-owned, with a combined single limit of not less than \$5,000,000 each accident. Such insurance must include coverage for loading and unloading hazards. Insurance must contain or be endorsed to contain a provision that includes Metro, its officials, officers, employees, and volunteers as additional insureds with respect to liability arising out of automobiles owned, leased, hired, or borrowed by or on behalf of Lessee.
3. *Property Insurance* . Lessee must purchase property insurance against all risks of loss to any tenant improvements or betterments. Insurance will be for full replacement cost with no coinsurance penalty provision.
4. *Worker's Compensation*. Lessee must maintain workers' compensation insurance with statutory limits as required by the State of Tennessee or other applicable laws and employers' liability insurance with limits of not less than \$100,000.

Lessee must:

1. Prior to commencement of Lease, furnish Metro with properly executed certificates of insurance which must clearly evidence all insurance required in this section and provide that such insurance will not be cancelled, allowed to expire, or be materially reduced in coverage except on 30 days' prior written notice to Metro's Law Department, \_\_\_\_\_, Nashville, TN 37201. The proof of coverage is to be received and approved by Metro Law Department before the Lease commences.
2. Provide certified copies of endorsements and policies if requested by Metro in lieu of or in addition to certificates of insurance.
3. Replace certificates, policies, and endorsements for any such insurance expiring prior to expiration of Lease.

4. Maintain such insurance from the time Lease commences until Lease is terminated. Failure to maintain or renew coverage or to provide evidence of renewal may be treated by Metro as a material breach of lease.
5. Place such insurance with insurer licensed to do business in Tennessee and having A.M. Best Company ratings of no less than A-.

30. **Indemnification and Hold Harmless.**

Lessee must indemnify and hold harmless the Metropolitan Government, its boards, officers, agents and employees from:

- a) Any claims, damages, costs and attorney fees for injuries or damages arising, in part or in whole, from the negligent or intentional acts or omissions of Lessee, its officers, employees and/or agents, including its sub or independent contractors, in connection with the performance of the contract, and,
- b) Any claims, damages, penalties, costs and attorney fees arising from any failure of Lessee, its officers, employees and/or agents, including its sub or independent contractors, to observe applicable laws, including, but not limited to, labor laws and minimum wage laws.
- c) The Metropolitan Government will not indemnify, defend or hold harmless in any fashion Lessee from any claims arising from any failure, regardless of any language in any attachment or other document that Lessee may provide.
- d) Lessee will pay the Metropolitan Government any expenses incurred as a result of Lessee's failure to fulfill any obligation in a professional and timely manner under this Contract.

31. **Default and Remedies.**

In the event of any default or breach of the terms of this contract, Fair Board may terminate this Lease at its option and/or re-enter the Premises and expel, remove and put out Lessee or any person or persons occupying the Premises and remove all personal property there from as allowed by law. Lessee will be responsible for all loss or damage resulting from such default and/or termination.

- a. All actions taken by Fair Board pursuant to this section will be without prejudice to any other remedies that otherwise might be used for the preceding breach of covenant or conditions or for default.
- b. Fair Board may elect, but will not be obligated to comply with any condition, agreement or term required hereby to be performed by Lessee and Fair Board will have the right to enter the Premises for the purposes of correcting or remedying any such default and to remain until the default has been corrected or remedied, but any expenditure for such correction by Fair Board will not be deemed to

waive or release the default of Lessee or the right of Fair Board to take any action as may be otherwise permissible hereunder in the case of any default, including, without limitation, recovering from Lessee the cost of correcting or remedying any default.

- c. In the event of termination for default or breach, the Fair Board may procure, upon such terms and in such manner as the Fair Board may deem appropriate, supplies or services similar to those terminated, and Lessee will be liable to the Fair Board for any costs for such similar supplies or services. In addition, Lessee will be liable to the Fair for all administration costs or other damages incurred by the Fair Board in procuring such similar supplies or services.
32. **Waiver.** No waiver of any provision of this Lease will affect the right of any party thereafter to enforce such provision or to exercise any right or remedy available to it in the event of any other default.
  33. **Compliance with Laws.** Lessee agrees to comply with any applicable federal, state and local laws and regulations.
  34. **Non-Liability of Agents and Employees.** No member, officer, agent, commissioner, or employee of the Fair Board or the Metropolitan Government may be charged personally or held contractually liable by or to Lessee under the terms or provisions of this Lease or because of any breach thereof or because of its or their execution or attempted execution.
  35. **Liens and Encumbrances.** Lessee must pay for all labor, materials and services used or furnished by or to Lessee or any contractor employed by Lessee for the improvement or alteration of the Leased Premises. Lessee must keep the Leased Premises free from all claims, liens and encumbrances, including, without limitation, mechanics' liens, all of which are hereinafter called "Encumbrances," arising out of any work performed, materials furnished or obligations incurred by Lessee or which are alleged to have arisen, been furnished or incurred, and agrees to indemnify, defend, and hold the Fair Board harmless from any Encumbrance together with costs of suit and reasonable attorneys' fees incurred by Fair Board in connection with any such claim or actions.
  36. **Lien contest.** Lessee may, in good faith, contest by any and all appropriate proceedings the validity and amount of any Encumbrance, provided that Lessee indemnify and save the Fair Board harmless from all claims, liabilities, loss or expense, including attorney's fees, arising from any such contest.
  37. **Attorney's Fees.** In the event that the Fair Board brings any action under this Lease and prevails in said action, then the Fair Board will be entitled to recover from Lessee its reasonable fees incurred as a result of said action. Such fees will include, but not be limited to, expert witness fees, court reporters' fees, court costs and attorneys' fees.

38. **Modification of Lease.** This Lease may be modified only by written amendment executed by all parties and their signatories hereto. All change orders, where required, shall be executed in conformance with the Metropolitan Code of Laws.
39. **Partnership/Joint Venture.** Nothing herein will in any way be construed or intended to create a partnership or joint venture between the parties or to create the relationship of principal and agent between or among any of the parties. None of the parties hereto may hold itself out in a manner contrary to the terms of this paragraph. No party will become liable for any representation, act or omission of any other party contrary to the terms of this paragraph.
40. **Employment.** Lessee may not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal or laying off of any individual due to race, creed, color, national origin, age, sex, or which is in violation of applicable laws concerning the employment of individuals with disabilities.
41. **Contingent Fees.** Lessee hereby represents that Lessee has not been retained or retained any persons to solicit or secure a Metropolitan Government lease upon an agreement or understanding for a contingent commission, percentage, or brokerage fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business. Breach of the provisions of this paragraph is, in addition to a breach of this Lease, a breach of ethical standards, which may result in civil or criminal sanction and/or debarment or suspension from being a lessor or sublessor under Metropolitan Government contracts.
42. **Gratuities and Kickbacks.** It will be a breach of ethical standards for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter, pertaining to any program requirement of a contract or subcontract or to any solicitation or proposal therefor. It shall be a breach of ethical standards for any payment, gratuity or offer of employment to be made by or on behalf of a subtenant under a lease to the prime lessor or higher tier sublessor or a person associated therewith, as an inducement for the award of a subcontract or order. Breach of the provisions of this paragraph is, in addition to a breach of this lease, a breach of ethical standards, which may result in civil or criminal sanction and/or debarment or suspension from being a lessor or sublessor under Metropolitan Government contracts.
43. **Heirs, Successors and Assigns.** All the terms, covenants and conditions hereof will be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of the parties hereto.

44. **Captions.** The headings and captions contained in this Lease are for reference purposes only and shall not limit or extend the meaning or terms of any paragraph or section contained herein.
45. **Severability.** Should any provision of this Lease be declared to be invalid by any court of competent jurisdiction, such provision will be severed and will not affect the validity of the remaining provisions of this Lease.
46. **Assignment.** Lessee may not assign or encumber this lease, either in whole or in part, without the prior written consent of Fair Board. However, Lessee may rent the Leased Premises to others, in whole or in part, for events of limited (lasting less than one week) duration and scope.
47. **Termination--Breach.** Should Lessee fail to fulfill in a timely and proper manner its obligations under this Lease or if it should violate any of the terms of this lease, Fair Board will have the right to immediately terminate the lease. Such termination will not relieve Lessee of any liability to Fair Board for damages sustained by virtue of any breach by Lessee.
48. **Lost Profits.** In no event will Fair Board have any liability for lost profits or revenues.
49. **Termination clause.** It is hereby agreed that should the Fair Board desire possession of the Leased Property for any purpose during the term of this Lease Agreement, said property will be vacated and agreement terminated upon 30 days' notice. The Fair Board will not compensate Lessee for any revenues or benefits that it would have received as of the termination date or any other expenses incurred by Lessee as a result of this termination.
50. **Effective Date.** This Lease will not be binding upon the parties until it has been signed first by the Lessee and then by the authorized representatives of the Metropolitan Government and has been filed in the office of the Metropolitan Clerk. When it has been so signed and filed, this Lease will be effective as of the date first written above.

METROPOLITAN BOARD OF  
FAIR COMMISSIONERS

\_\_\_\_\_  
Chairman

ATTEST:

\_\_\_\_\_  
Secretary

APPROVED AS TO AVAILABILITY  
OF FUNDS:

\_\_\_\_\_  
Director of Finance

APPROVED AS TO PURCHASING  
PROCEDURES:

\_\_\_\_\_  
Purchasing Agent

APPROVED AS TO INSURANCE  
REQUIREMENTS:

\_\_\_\_\_  
Director of Insurance

APPROVED AS TO FORM AND  
LEGALITY:

\_\_\_\_\_  
Metropolitan Attorney

\_\_\_\_\_  
Lessee

\_\_\_\_\_  
Title:

Sworn to and subscribed to before me,  
Notary Public, this \_\_\_\_ day of September  
2003. \_\_\_\_\_

Notary Public  
My Commission Expires: \_\_\_\_\_

Filed in the Office of the Metropolitan  
Clerk:

\_\_\_\_\_  
Metropolitan Clerk  
Date: \_\_\_\_\_