

**DMC Logo or Letterhead  
Agreement for Services**

Date: <Insert today's date>

Program Name:	Program Number:
Client Name:	Program Dates:
Title:	Client:
Street Address:	# of guests:
City State and Zip:	Fax:
Telephone:	Email:

This Service Agreement (Agreement) is a contract by and between [DMC Name] ("DMC"), and [Client Name] [CLIENT]). This Agreement contains proprietary information, which may not be reproduced or disclosed by Client except to representatives, attorneys, and accountants of Client. It will be binding when signed by authorized representatives of both parties. A signed copy of this Agreement and the initial payment is due by <date> in order to hold the dates. **Any alterations to this Agreement considered void unless initialed by both parties.**

*It is important to ensure that the proper client name is listed (corporate name rather than doing business as "d/b/a" name). Further the second sentence re: proprietary information is important to include in the event the client attempts to produce the Program without the DMC's involvement. Finally, it is important to note that the contract will not be binding until both a signed agreement is received and a payment received. If one or the other does not occur, there is no contract and the client should be reminded of the same.*

**The parties agree as follows:**

**1. RESPONSIBILITIES**

Subject to the terms and conditions set forth in this Agreement, DMC shall provide the services specified in the proposal attached as "Attachment A" (hereafter referred to as "Event Services"), and subsequent schedules of services as signed by the Client, and incorporated in this Agreement by this reference. Unless otherwise agreed to in writing, DMC shall be appointed by the Client to act as the exclusive provider of Event Services for the Program and, as such, will have the necessary authority to act on the Client's behalf with respect to the organization and management of the Program. DMC will make payment to service providers, provided that Client has paid DMC in accordance with this Agreement.

It is understood and agreed that DMC shall have the right on behalf of Client to contract with third parties for necessary services, suppliers, equipment or otherwise in the carrying out of duties and Event Services outlined in this Agreement. It is specifically understood by both parties that DMC is not the employee of Client or any of DMC's suppliers or subcontractors and that DMC's relationship with Client, suppliers and subcontractors is that of independent contractor acting as a special agent with authority to implement all contracted services described in this Agreement or later agreed to by the Parties. In any actions undertaken for Client, DMC's liability is limited to that of an authorized agent.

*There are a number of key items within this provision. First, it is important to ensure that the services listed on Attachment A are complete and accurate. Those are the services by which the DMC will be judged as to whether they performed/were in breach, etc. Another key aspect in the*

DMC \_\_\_\_\_

Client \_\_\_\_\_

*first paragraph is the appointment of the DMC as the client's exclusive agent for the Program. That can be helpful to refer to later if the client tries to add another party to help with the process.*

*In the second paragraph, the DMC's appointment of authorized agent is also critical. This gives the DMC authority to enter into contracts on the client's behalf. It also provides that the DMC's liability is limited to that of an authorized agent – not an employee – such that the client is ultimately responsible for such contracts. Note that this concept of agency at contract law differs than the definition of an "agency" under many state statutes.*

**2. CLIENT REQUESTED MODIFICATIONS**

Subsequent to the date of this Agreement, it may be necessary for Client to make certain modifications to the Agreement then in effect. Client will advise DMC of any modifications or corrections to the Event Services in writing. In such event, and upon receipt of Client's requested modifications, DMC agrees to use its best efforts to accommodate the requested modifications of Client. In the event DMC is able to accommodate such requested modifications, DMC will notify Client of any change in price and/or schedule and DMC shall prepare an Addendum, or an executed change order, which when executed by respective authorized representatives of both parties shall be deemed to modify the previous Agreement then in effect. In the event DMC is unable to accommodate Client's requested modifications, or in the event Client does not approve the prices and terms set forth in the revised Addendum or change order, then **Client and DMC shall continue to remain obligated to perform their respective obligations pursuant to this Agreement and any executed addendum and pursuant to the revised Addendum then in effect.**

*Addressing the possibility of client changes is important and is often the source of disputes between DMCs and their clients. This section sets forth the proper process for changes and states that if changes are not made pursuant to that process, the contract will remain in effect for the contracted services. DMCs should ensure that they do not permit any "dangling" change requests by client: such requests should either be addressed via a change order or addressed with correspondence stating that the parties could not come to terms regarding the change or that the client withdrew its request for the change.*

**3. TERMS OF PAYMENT**

Total estimated costs to Client for the Program are provided hereto in the attached Attachment A. Any additional Event Services costs incurred at the request of the Client shall be billed as outlined in subsequent revised addendum or change order to this Agreement. All rates include a professional services fee and/or fees for accounting, supervision, and coordination unless otherwise noted.

**A. Initial Payment**

A nonrefundable initial payment of <insert currency> (or xx% of estimated services as outlined in Attachment A) is required upon commencement of a written or oral agreement.

**B. Payment Schedule**

<b><i>Nonrefundable Initial Payment</i></b>	
\$	Due on: <b>DAY, MONTH DATE, YEAR</b>
<b><i>Additional Payments (Nonrefundable payments will be indicated as such.)</i></b>	
\$	Due on: <b>DAY, MONTH DATE, YEAR</b>

\$	Due on: <b>DAY, MONTH DATE, YEAR</b>
<b>Final Balance</b>	
\$	Due on: <b>DAY, MONTH DATE, YEAR</b>
This amount represents the final balance based on the original contracted fees and any mutually agreed upon changes. The final invoice will reflect this balance plus any additional approved expenses. Final payment must be received by DMC within 10 business days from date of final invoice.	
<b>Payments Past Due</b>	
In the event any Additional Payment is not received by the date listed, then even with a signed Agreement, DMC reserves the right, upon further written notice to Client, to cancel any and all services and to terminate this Agreement.	
With the exception of the Final Balance, Funds must be received in DMC's accounts before the delivery of services.	
<b>Additional Payments</b>	
If, as a result of a written change(s) requested by Client, there is an increase in the estimated Program cost prior to the operation of the Program, then Client agrees to make an additional payment to ensure that the total Initial Payment and any Additional Payment(s) is/are equal to XX% of the Total Estimated Program Cost prior to the commencement of the Program.	

*There a number of critical items in the payment provision. Most importantly, DNCs should ensure that they are always holding more of the client's money than is needed at the time such that they can ensure timely payments to vendors. This provision also gives the DMC the right to terminate services if the client is behind in payments.*

**C. Method of Payment**

Payment is to be made in <insert currency> by check drawn on a <insert country> bank or by wire transfer. Prices quoted in Attachment A reflect a x% cash discount for payment made by check or wire transfer. If payment is not made by check or wire transfer, the discount shall be rescinded. These charges will be reflected in the final invoice.

*Note that DMCs can establish their own terms of payment and can offer a discount for payments made via cash.*

**D. Credit card authorization for all Agreements**

Signed credit card authorization is required as a payment guarantee. If payments, installments or final payments are not received by the due date per the above schedule, then the overdue payment will be charged to the credit card on hold. If payment is paid with credit card, final balance will also be charged to credit card at conclusion of Program unless other arrangements are made.

*Generally speaking, unless provided otherwise in the DMCs merchant agreement with the credit card company, the DMC may not assess an additional surcharge for credit card use. As such, the fee for credit cards should be the maximum fee with the cash discount offered above in Section C.*

**E. Past Due**

Final payment is due 10 days after date of final invoice. A 1.5% service charge on balance per month will be added. Additionally, should any additional charges or costs be accrued

with any contracting party because of a delay in payment by Client, Client will be responsible for such amounts. Further, Client shall be responsible for all costs and fees (including attorney's fees) associated with DMC's efforts to collect any past due amounts from Client.

*It is important that DMCs enforce their rights regarding past due amounts. If the DMC were to need to hire an attorney to pursue collection of fees, such costs would be covered as well.*

**F. Guarantees**

Unless otherwise noted on Attachment A, a final guarantee is due on all services <number> (X) business days prior to operation. If the final guarantee is less than the minimum guarantee upon which the price listed on Attachment A was based, the minimum guarantee will apply. Client will be billed for guarantee or actual attendance, whichever is greater.

*It is important to work off of the guarantee and to be clear in communications with the client as to the guarantee number and, ultimately, the actual number. It is a good idea to keep as much information to substantiate the guarantees and actuals.*

**G. Reduction of Services**

DMC has prepared this Program to Client's specifications including time invested preparing, costing, and confirming all logistics of the Program. In the event Client reduces the scope of services as contracted herein, the Client shall be subject to a management fee equal to \$X per hour to cover the DMC's time and resources. Itemized accounting of time will be provided.

*This is essentially the "floor" to ensure that the DMC will receive a minimum fee for the Program. This is critical to include as more and more groups refine their Programs and seek to reduce costs by cutting back on items. DMCs should ensure that the fee included in his provision reflects the value of services provided to the client overall – regardless of Program size.*

**4. CANCELLATION OR INABILITY TO PERFORM BY CLIENT**

In the event Client should cancel the Program, or DMC's services, (other than as outlined in Force Majeure, Section 6) or other material breach of this Agreement by the Client, or Client representative, both parties acknowledge that it would be difficult to ascertain the exact amount of damages that DMC may suffer due to lost revenue, staff time, and unrecoverable expenses. As such, in the event of cancellation of all or any part of Services by the Client, the parties agree to liquidate damages and agree that the formulas specified below are a reasonable attempt to calculate actual damages suffered by DMC and not a penalty. Client agrees to pay DMC as liquidated damages and not as a penalty, the actual direct costs, including labor costs expended or incurred by DMC and the charges of DMC's vendors and suppliers, in connection with the cancelled Services, together with a cancellation fee for the canceled services, in the following amounts:

**A. Transportation and Staff (other than complete Program cancellation):**

1. Staff and motor coaches cancelled within fourteen (14) days of scheduled service are subject to a cancellation fee of X%
2. Staff and motor coaches cancelled within seventy-two (72) hours of scheduled service are subject to a cancellation fee of X%
3. Minicoaches and vans cancelled within seventy-two (72) hours of scheduled service are subject to a cancellation fee of X%

4. Sedans cancelled within X (X) hours of scheduled service are subject to a cancellation fee of X%.
- B. Other individual service (e.g. Décor/entertainment/activities) or complete Program cancellation will apply to estimated service/Program total then in effect at time of service or Program cancellation, less non-refundable payments. Percentage charged is calculated from the date of Program or activities cancellation to the date of Program or activities commencement as follows:
1. Ninety-one (91) or more days prior to the scheduled beginning of the Program, is subject to a cancellation fee equal to \$\_\_\_\_\_ or X% of the Program/service total at time of cancellation;
  2. Ninety (90 to sixty-one (61) days prior to the scheduled beginning of the Program, is subject to a cancellation fee equal to \$\_\_\_\_\_ or X% of the Program/service total at time of cancellation;
  3. Sixty (60) to thirty-one (31) days prior to the scheduled beginning of the Program, is subject to a cancellation fee equal to \$\_\_\_\_\_ or X% of the Program/service total at time of cancellation;
  4. Thirty (30) to fifteen (15) days prior to the scheduled beginning of the Program, is subject to a cancellation fee equal to \$\_\_\_\_\_ or X% of the Program/service total at time of cancellation;
  5. Fourteen (14) or less prior to the scheduled beginning of the Program, is subject to a cancellation fee equal to \$\_\_\_\_\_ or X% of the Program/service total at time of cancellation.
- C. For all cancellations, it is understood and agreed by Client that DMC may retain any prepayments made by Client as payment toward any cancellation fee except to the extent that any such payments exceed the applicable cancellation fee. All cancellations must be in writing to DMC and any cancellations payments still due must be paid to DMC within 10 days of cancellation.

*Cancellations must always be addressed in the contract. Ideally, the cancellation fees should be as specific as possible based on the client's Program at the time of contracting. A sliding scale approach as noted above is often the best practice to ensure that the cancellation fee provision will be enforceable as a reasonable estimate of the DMC's damages. Ideally, the DMC should be holding enough of the client's funds to cover cancellation fees and, under Section C above, the DMC can retain those sums toward the cancellation fee.*

## 5. CANCELLATION OR INABILITY TO PERFORM BY DMC

- A. DMC will make every effort to conduct the Program as described, however, reserves the right to make adjustments to programs without affecting their material nature or overall quality. Should situations beyond the control of DMC make changes necessary, DMC will work diligently and in good faith with Client on any such changes. DMC reserves the right, upon written notice to Client, to make equitable substitutions when necessary. Additionally, DMC will not be liable for any delays or failures in performance due to causes beyond its control, including acts of third-party suppliers to the Program.

B. In the event DMC breaches its obligations under this Agreement for any reason other than as defined in Force Majeure (Section 6), then DMC shall return to Client its payments in full (for complete nonperformance) or the full amount paid for that (or those) service(s) not provided (for partial nonperformance). In no event shall DMC be liable for incidental or consequential damages or lost profit sustained by Client arising out of any claimed breach of this Agreement. DMC makes no warranties, expressed or implied.

*This section addresses the DMC's ability to perform outside of a Force Majeure setting. Section A addresses issues concerning the DMC's inability to secure requested services and to make substitutions. Clients will likely seek to ensure that no substitutions would be made without the client's consent which, if the DMC agrees, would be a reasonable inclusion in this provision. In Section B, a breach by the DMC is addressed and ensures that the client will receive a refund of the fees for services not performed. The last sentence limits the DMC's responsibilities for damages.*

## **6. FORCE MAJEURE / TERMINATION / EXCUSE OF PERFORMANCE**

Either party may terminate its performance obligations without liability or further obligation to the extent its performance is affected by acts or occurrences beyond its control that makes it impossible to hold the Program or for DMC to provide the services specified herein. The acts or occurrences that trigger the right of either party to terminate this Agreement under the terms of this section include, but are not limited to: acts of God, war, government regulation (including governmental advisories, quarantines and curfews), natural disaster, fire, strikes or other labor disputes, curtailment or disruption of transportation, civil disorder, terrorism and responses thereto, an act or occurrence creating a significant risk to the participants' health or safety (as determined by both parties), or affecting a party's performance. This Agreement may be terminated without liability for any one of such reasons by written notice from one party to the other which is issued within ten (10) days from the commencement of the Force Majeure act or occurrence. If the Program is scheduled for fewer than ten (10) days from the commencement of the Force Majeure event, then a notice must be received in writing within twenty-four (24) hours of the commencement of the Force Majeure event. Should this Agreement be terminated according to the terms in this Section, DMC will return to Client any payments previously paid by Client to DMC, less all of the following amounts which DMC shall be entitled to retain: any non-recoverable and other out-of-pocket costs DMC has paid or is obligated to pay to DMC's vendors, suppliers and subcontractors, and any costs (including labor) for which DMC has otherwise incurred an obligation to pay, as of the time of the Force Majeure Termination, so long as such direct and / or indirect costs are supported by reasonable documentation. Additionally, DMC shall not be liable to the other party for any delays or failure to perform by itself or its vendors due to causes beyond its or any of its vendors reasonable control.

*Force Majeure provisions are important to include as the clients will be seeking the provision and it is also helpful to the DMC. It is important, however that the DMC recover its fees and costs up to the date of the termination. Documentation is important to keep as to the fees earned and costs incurred to date of cancellation. Ideally, the DMC should tell the client that the fees would be held for a rescheduled Program as a means of ensuring the client will bring additional work back to the DMC.*

## **7. LIABILITY AND INSURANCE**

A. (1) DMC will be responsible for the acts or omissions of its employees and will indemnify, hold harmless and defend Client from and against any and all demands or asserted claims

from third parties for damages to persons or property, or losses and liabilities, including reasonable attorney's fees, arising solely out of DMC's or its employees' negligence or willful misconduct in connection with its provision of Event Services (as distinguished from the performance or omissions of third-party vendors) under this Agreement. Such indemnification of Client by DMC shall be effective unless such damage or injury results, in whole or in part, from the negligence or willful misconduct, acts or omissions of Client, its agents, servants, employees, or contractors, in which case liability shall be apportioned between the parties. DMC shall not be liable to Client for any damages in excess of amount paid by Client for Event Services performed hereunder.

*Clients will be seeing an indemnification provision from the DMC. This provision does a good job limiting the scope of the DMC's exposure to acts arising "solely" out of the DMC's acts. Note that clients will likely want to delete the word "solely" in order to expand the scope of coverage under the provision. If the DMC agrees to do so, it will make it more likely this provision is triggered. Note also that one exception to the DMC's obligation to indemnify is due to the client's negligence. Any instances of the client's negligence should be well documented. Finally, note the last sentence re: cap on DMC's damages. This is important to include gut again, the client will seek to remove this limitation and it will be a business judgment on the DMC's part as to whether it removes it and opens itself up to further liability.*

(2) Client acknowledges that DMC does not own, operate, or in any other manner exercise any control or influence over third party vendors for the provision of goods and services for the Program specified herein. DMC accepts no liability for the acts of any vendors. DMC requests each primary vendor to agree to hold harmless, indemnify and defend Client from asserted claims or losses arising from the use of vendor's service or product provided Client makes a request for DMC to do so at least ten (10) days prior to the Event dates. "f a specific primary vendor will not agree to hold harmless, indemnify and defend Client, DMC will offer another vendor if Client so requests. If Client wants to be named as an additional insured on a vendor's insurance policy, Client shall make such request at least ten (10) days prior to the Event dates and an additional fee of \$XXX will apply.

*This provision is important to include to document that the DMC is not responsible for what its vendors do including in the area of service of alcoholic beverages. Note that clients may want the DMC to seek indemnification from all vendors rather than just "Major Vendors" and it will be a business decision on the DMC's part as to whether it would agree to such a provision. Note also the client may want to be named as an additional insured on the vendor's insurance policy in which case the language provides for a fee for such addition. Note that the DMC should have a standing agreement with each vendor which provides indemnification protection to the DMC (and to its clients if possible) and names the DMC as an additional insured on the vendor's liability policy(ies).*

(3) Regardless of the vendor used, Client hereby releases, covenants not to sue, and forever discharges DMC, and its owners and employees from any and all liability, claims, actions, and causes of actions whatsoever arising out of or related to any loss, damage or injury that may be sustained due to the alleged or actual acts or omissions of a vendor of products or services under this contract. Accordingly, Client agrees that it will look solely to the vendor for compensation for said losses, damages or injuries.

*This is an important limitation of liability provision. Many clients may object to a release against the DMC for the vendor's liability but it is consistent with the fact that since the DMC is not responsible for what the vendor does, it is also cannot be held liable for the vendor's actions and should not be sued as a result.*

(4) Client will be responsible for the acts or omissions of its employees and agents and will indemnify, defend and hold harmless DMC, its officers, directors, employees, and each of them, from and against any and all demands or asserted claims from third parties for damages to person's or property, or losses and liabilities, including reasonable attorney's fees arising solely out of or caused by the negligence or willful misconduct of Client or any employee, member, guest, invitee or agent of Client.. Such indemnification of DMC by Client shall be effective unless such damage or injury results, in whole or in part, from the negligence or willful misconduct, acts or omissions of DMC, its agents, servants or employees (as distinguished from the performance or omissions of third-party vendors), in which case liability shall be apportioned between the parties.

*This is an important indemnification provision for the DMC to be protected from the client's actions. Note that it would not apply if the DMC acts negligently.*

(5) The terms of Section 7 (Liability and Insurance) and any other indemnification provisions outlined in this Agreement shall survive the termination or expiration of this Agreement.

*It is important to note that the provisions in this section "survive" termination meaning that if someone raised an injury claim six months after the event, the terms of these provisions would still apply.*

B. Insurance: DMC and Client both agree to carry Commercial General Liability (CGL) insurance and workers compensation coverage on its employees, as applicable, in at least the minimum amounts required by the State of <enter state of DMC>.

*It is important that both parties represent to each other that they have insurance which will, in the case of one party's negligence, kick in and pay the costs to fulfill such party's indemnification obligations.*

C. Liquor Service: If alcoholic beverages are to be served at Client's event, Client is at all times responsible for the actions of its invitees, agents, other vendors and servers. DMC will not supervise or control the actions of said persons and disclaims any and all responsibility for their acts or omissions. Accordingly, Client agrees to indemnify, hold harmless and defend DMC, its officers, directors, employees, agents, or contractors from any costs, asserted claims, damages, or judgments resulting from the sale and/or consumption of the alcoholic beverages.

*It is important to include this provision as a means of ensuring that the DMC will not be caught in the middle of a liquor liability dispute. The indemnification provision in the second portion is also important and the DMC should have the same provision included in its contract with the vendor.*

D. Liability for Property Damage: Both parties shall be responsible to the other for damage to, theft, or loss of, the other's property, whether owned, leased or rented, arising out of the negligence or willful misconduct of the party causing the damage or loss, including the acts



or omissions of that party's employees, agents, guests or Client's other contractors while they are acting on the behalf or at the direction of their principal. Client's responsibility shall include, without limitation, any damage to, theft, or loss of DMC vehicles, third-party vehicles, props, linens, centerpieces (not designed to be taken away by Client). This paragraph is subject to the terms in paragraphs 7(A)(1) through 7(A)(4), above.

*This provision is important to include given that vendors will seek that the client/DMC is responsible for theft or damage to décor, equipment, etc.*

## **8. ATTORNEYS' FEES / GOVERNING LAW**

This Agreement shall be governed by and construed in accordance with the laws of the state in which DMC has its primary office, without reference to any choice of law doctrine. DMC and Client shall use their best efforts to settle any controversy, dispute, or claim arising out of or relating to this Agreement, its validity, interpretation, or breach thereof, by negotiation or mediation.

*It is important to provide for which state law will govern and that the parties will work to resolve disputes informally before invoking formal measures.*

### **OPTION A – CHOICE OF FORUM**

If, after 30 days from the first written notice of a dispute the parties are not able to agree on any settlement, such controversy, dispute or claim shall be heard in courts located in the county of DMC's primary office.

*The DMC should discuss with its attorney as to which is the best method of resolving disputes for the DMC. In some cases, litigation is preferred over arbitration especially when the litigation is held in the DMC's home state.*

OR

### **OPTION B – ARBITRATION**

If, after 30 days from the first written notice of a dispute the parties are not able to agree on any settlement, such controversy, dispute or claim shall be settled by arbitration. Such shall be held in the county of DMC's primary office in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The arbitration shall be initiated by either Party delivering to the other a written notice of intention to arbitrate. The Arbitrator(s) shall be appointed by and in accordance with the existing procedures of the American Arbitration Association. The arbitration process is binding on the Parties and shall be a final resolution of any such dispute to the same extent as a final judgment of a court of competent jurisdiction. If necessary, Judgment upon the award rendered by the Arbitrator(s) may be entered in any court having jurisdiction thereof.

The substantially prevailing party in any such arbitration, as decided by the Arbitrator(s), shall be entitled to an award of its reasonable costs and expenses incurred in connection with such arbitration, including but not limited to attorney fees and expenses, expert and/or consultant fees and expenses, the administration fees and expenses of arbitration, and the compensation and expenses of the arbitrator(s).

*Again, this is a discussion item between the DMC and its legal counsel. Arbitration can tend to be more cost and time efficient but the outcomes might not always favor the DMC.*

### **9. AMERICANS WITH DISABILITIES ACT (ADA)**

It is the policy of DMC, in complying with applicable ADA regulations, to take all reasonable steps to ensure that all persons with disabilities are given equal and reasonable opportunity to access all DMC services. DMC does not have direct control over private and public property that may be requested to be a part of the Program. DMC will advise Client of any third party suppliers not in full compliance as DMC becomes aware of such instances. At least 72 hours prior to event, Client must provide written notice to DMC with the details of any specific disability that guests may have including any special equipment or service needs. DMC will endeavor to provide reasonable accommodation and access to accommodate any attendee with a disability. Client shall pay for additional cost of equipment or services, if any, to accommodate the disabled attendee.

*It is important to inform the client that it has the ADA obligations relative to the Program and that the DMC's job is to assist the Client in the Client's fulfillment of such responsibilities. The Client will be seeking the DMC's advice on compliance issues but this provision ensure that the client understand that ADA compliance is the client's responsibility.*

### **10. MUSIC LICENSING**

Pursuant to the United States Copyright Law (Title 17, USCA) Client understands and acknowledges that Client is responsible and liable for obtaining music licenses from the appropriate performing rights organizations and for the payment of all fees due under said licenses if copyrighted music, either live or recorded, is to be played or performed during the Program.

*Just as with ADA, the Client has the responsibility for music licensing compliance. The DMC can assist with the process.*

### **11. CLIENT / DMC AUTHORIZED CONTACTS**

The contacts for **Client** and **DMC** that are authorized to make changes or modifications to this Agreement, receive notices required by this Agreement, or respond to inquiries regarding the Program for Client, are listed below:

**For Client:** (Name) or designee  
(Title)  
(Address)  
(Phone)  
(Fax)  
(E-mail)

**For DMC:** (Name) or designee  
(Title)  
(Address)  
(Phone)  
(Fax)  
(E-mail)

These contacts should be kept as current as possible.

## 12. MISCELLANEOUS

- A. **Logos and Service Marks:** Client agrees to use the DMC's logo and service marks only in the manner authorized in writing by DMC. DMC agrees not to use Client's name, logo and service marks without further written authorization, except when referring to Client as an organization for whom DMC is providing or has provided services.

*It is important to include this provision so there is a baseline understanding as to when each party can use the other party's marks. For the DMC, it needs to have the ability to promote to other clients the work it did for this client.*

- B. **Printed Material:** If Client prepares a Program, brochure or other printed material describing the events referenced in Attachment A, or attached addenda, Client will provide such written material to DMC in advance, for DMC's review and approval of any use of the DMC's service mark and to enable DMC to determine what the participants' expectation about such events will be. DMC's approval will not be unreasonably withheld. DMC agrees to perform such review promptly and at no charge.

*This is an important right to ensure that the client is accurately portraying the Program so as not to promise attendees more than what's being delivered, etc.*

- C. **Waivers of Liability:** Client understands and agrees that certain vendors may require participants in a planned activity to sign waivers of liability. In the event that some participants refuse to sign said waivers, but are allowed to participate in the activity, Client will indemnify, hold harmless and defend DMC and vendor from and against any asserted claims or judgments for loss or injury, including wrongful death, brought by the participant or his/her heirs or estate.

*This is important to include as a release and waiver will often be sought for attendees who participate in recreational events. Note that the release should cover the DMC and the client as well.*

- D. **Severability or Waiver:** Waiver by either party of any term or condition or breach shall not constitute a waiver of any other term or condition or breach of this Agreement. In the event any provision of this Agreement is held invalid or unenforceable or in the event any provision of this Agreement is held invalid or unenforceable in a particular application, then, as the case may be, neither the remaining provisions of this Agreement nor other applications of the provisions involved shall be affected thereby.

*This waiver provision is important because often, in the execution of the Program, one or the other party will say that it's alright if something didn't get performed right or on time, etc. because of circumstances. However, just because the party made an exception in that one case, does not mean that the exception should carry forward for every obligation.*

- E. **Restrictions on Assignment:** Neither party will assign any of its rights or obligations under this Agreement, in whole or in part, without the written consent of the other party except in the event of a merger, consolidation or sale of assets of either party where the surviving

entity continues in the same or substantially similar business as that party, no consent is required. All terms and conditions of this Agreement will be binding upon the assignee(s) of the parties to this Agreement. Where required, consent will not be unreasonably withheld. Should an assignment of this type take place, the new entity agrees to notify the other party within a reasonable time. All representations and warranties made and indemnities given in this Agreement by either party will survive the termination or assignment of this Agreement.

*The DMC needs to ensure that they will be providing services to the client it originally contracted with and that if there's a change in the client's ownership (aside from a merger, etc.), they will have a right to consent to working for that party. This provision runs both ways and ensures protection for the client as well as to change in ownership of the DMC.*

**F. Entire Agreement:** This Agreement, together with Attachment A and any other addenda signed by authorized representatives of the parties, represents the entire understanding between DMC and Client with respect to the matters contained or referenced herein and supersedes all other representations, communications (including, an example but without limitation, the terms of any purchase order issued by Client) and understandings between the parties hereto. If either party uses a facsimile (fax) transmittal hereto, then the fax copy will serve as an original unless an actual original is executed and received by both parties within ten (10) days from such transmittal. Any additional vehicles, props, personnel, amenities or services that may be added to those set forth in "Attachment A", or attached addends, will be subject to all terms and conditions of the Agreement.

*This provision should always refer to an attachments by name so as to properly incorporate the terms of those attachments into this Agreement.*

**G. Notices:**

- 1) Any notice pertaining to this Agreement must be in writing and will become effective when delivered and received by the intended recipient by one of the following methods:
  - a) Letter sent by certified mail or by overnight carrier, return receipt requested, postage prepaid to intended recipient, or
  - b) Hand-delivered with a signed receipt, or
  - c) Facsimile (fax) transmission: Notice by fax is effective when the sender of the fax has written notice from the intended recipient that the fax transmission was received.
  - d) Electronic via email or scanned attachment.
- 2) Notices to Client and DMC may be sent to the attention of contacts listed and addressed as indicated in Section 11, CLIENT / DMC AUTHORIZED CONTACTS, above. The names and addresses may be changed by giving written notice of such change in the manner provided in this Agreement for giving notice. Unless and until written notice is received, the last name and address stated in this Agreement will be deemed to continue in effect for all purposes.

*It is important to ensure that the terms of this provision are followed in every instance including situations in which the client is late on payments or wants to make changes.*

The DMC wants to avoid situations in which the client argues that proper notice was not given pursuant to this provision.

**13. AUTHORIZED SIGNATURES**

The persons whose names and signatures appear below, represent and warrant that they have authority to enter into this Agreement on behalf of the company, firm or organization they purport to represent and hereby agree to the terms set forth herein.

*The DMC should ensure that the person signing on behalf of the of the client has legal authority to sign (by virtue of their position such as President or Director of Meetings) or by specific authorization. If there is any doubt as to whether the person signing the contract on behalf of the client has authority to sign, the DMC should ask the client for confirmation.*

The CLIENT and DMC have executed this Agreement on the date set forth below:

Client Name

_____	_____	_____
Client Contact	Title	Date

DMC Name

_____	_____	_____
DMC Contact	Title	Date

## Attachment A

Program Name:  
Client Name:

Program Number:  
Program Dates:

### **DMC will provide the following Services:**

The CLIENT agrees to pay fees for services rendered according to the following:

[INSERT LIST OF SERVICES AND FEE SCHEDULE]

Quoted costs are subject to taxes currently in effect. Any change in tax rates or the unanticipated implementation of supplementary fees (i.e. energy surcharges) by contracted facilities or vendors will be passed onto CLIENT and reflected in the final bill.

Any additional services requested by the client and not included in this agreement shall be included in final invoice.

*Please note that prices above are valid for x business days after receipt of this Agreement. Certain event elements will not be reserved (and therefore not guaranteed to be available) until Agreement is signed and is received.*

*This is important to include and to remind the client that the offer, prices, etc. are only available until DATE. Thereafter, the DMC should notify the client that the offer has expired but that a new offer is available until DATE, etc.*