

RIGHT OF ENTRY AGREEMENT

RECITALS

This **RIGHT OF ENTRY AGREEMENT** (the “**Agreement**”) is made as of _____, 2015 (the “**Effective Date**”), by and between the **CITY OF CHICAGO**, an Illinois municipal corporation and home rule unit of government (the “**City**”), and its Department of Cultural Affairs and Special Events (the “**DCASE**”), having its principal offices located at the Chicago Cultural Center, 78 East Washington Street, Chicago, Illinois 60602, and _____ (the “**Licensee**”), having its principal offices located at _____.

RECITALS

WHEREAS, the City is the owner of the Chicago Cultural Center (the “**CCC**” located at 78 East Washington Street, Chicago, Cook County, Illinois, legally described on **Exhibit A** attached hereto the “**Property**”); and

WHEREAS, the Property is improved as an indoor cultural center that is actively operated by the City’s DCASE for free arts and culture programming supporting its mission; and

WHEREAS, DCASE intends to produce Lake FX Summit and Expo, the region’s largest free conference for artists, creative professionals and entrepreneurs to further support the creative arts industry; and

WHEREAS, Lake FX Summit and Expo’s purpose is to bring together members of the creative arts industry to further promote education, professional development and networking opportunities; and

WHEREAS, DCASE has designated areas within the CCC for creative arts industry exhibitors (“Licensee”) to meet and share information with Lake FX Summit and Expo attendees; and

WHEREAS, Licensee wishes to participate in the Lake FX Summit and Expo (the “**Activity**”); and

WHEREAS, Licensee agrees to pay an Exhibitor fee to participate in the Activity, unless waived as noted in Exhibit B; and

WHEREAS, the location and scope of the Activity shall be limited to the locations upon and within the Property as they are described herein and no access or Activity shall be permitted on other portions of the Property without written City consent; and

WHEREAS, the City has agreed to grant such access upon the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Incorporation of Recitals.** The foregoing recitals constitute an integral part of this Agreement and are incorporated herein by this reference with the same force and effect as if set forth herein as agreements of the parties.

2. **Grant.** Subject to the terms and conditions set forth herein, the City hereby grants to Licensee a Right of Entry to the Property for the sole purpose of allowing Licensee to perform the Activity. The right of entry granted hereunder extends to, and Licensee shall be responsible for, its agents, employees, contractors, subcontractors, consultants, vendors, and any other parties who enter the Property at Licensee's direction or with Licensee's consent (collectively, "**Agents**"). Licensee shall be responsible for ensuring that all Agents comply with Licensee's obligations under this Agreement, and non-compliance by any Agent shall be deemed to be non-compliance by Licensee. This right of entry is subject to all easements, encroachments, covenants, restrictions of record and not shown of record, and any other title encumbrances or defects affecting the Property. Licensee acknowledges that the City has not performed any title or survey work in connection with the negotiation and execution of this Agreement and agrees that it is Licensee's sole responsibility and obligation to confirm that the Activity occurs solely within the portions of the Property permitted by this Agreement.

3. **Term.** The term of this Agreement (the "**Term**") shall begin on the Effective Date and shall terminate upon the earlier of: (a) forty-five (45) days after the Effective Date for a period not to exceed forty-four (44) days; or (b) the completion of the Activity and restoration of the Property in accordance with Section 9 hereof, whichever is earlier. Prior to entering the Property, Licensee shall provide proof of insurance for itself and its Agents, as required by Section 7 of this Agreement, and copies of any necessary permits and approvals, if any, as required under Section 5 of this Agreement, Licensee agrees to notify the City at least two (2) days prior to commencing the Activity unless the City provides otherwise. Licensee further agrees to notify the City promptly upon early expiration of the Term under (b) above.

4. **Compliance with All Laws.** Licensee and its Agents shall comply at all times with any and all applicable municipal, county, state, federal or other statutes, laws (including common law), ordinances, codes, rules and regulations (collectively, "**Laws**"). Contract provisions that are required to be included in this Agreement by any such Laws shall be deemed included.

5. **Permits.** Prior to entering the Property, Licensee must secure, or cause its Agents to secure, at its sole cost and expense, all necessary permits and governmental approvals required to perform the Activity. Licensee understands that this Agreement shall not act as a substitute for any such permits or approvals that may be required. Licensee shall provide copies of all required permits and approvals to the City prior to entering the Property.

6. **Indemnification.** Licensee shall indemnify, defend (through an attorney reasonably acceptable to the City) and hold the City, its officers, officials, employees, agents and representatives (collectively, the "**City Parties**"), harmless from and against any and all actions, claims, suits, complaints, demands, legal or administrative proceedings, losses, damages, debts, liens, obligations, liabilities, judgments, amounts paid in settlement, arbitration or mediation awards, interest, fines, penalties, costs and expenses (including, without limitation, attorneys' fees, consultants' fees and court costs) (collectively, "**Claims**"), of whatsoever kind and nature, including without limitation, any and all environmental Claims, made or asserted by any third parties for injury, including personal injury or death of any person or persons, and for loss or damage to any property, occurring in connection with, or in any

way arising out of or incident to (a) any and all acts, alleged acts or omissions of Licensee, its Agents or any other person entering the Property during the Term and (b) any entry upon or use of the Property or performance of the Activity by or on behalf of Licensee, its Agents or any other person entering the Property during the Term and (c) the failure of Licensee or its Agents to pay contractors, subcontractors or material suppliers in connection with this Agreement. The indemnification provided herein will be effective to the maximum extent permitted by Law and is not limited by any amount of insurance required under this Agreement.

Licensee shall be solely responsible for the defense of any and all Claims against the City Parties, including without limitation, claims by any Agents of Licensee, even though the claimants may allege negligence or intentional and willful misconduct on the part of the City Parties. The City shall have the right, at its sole option, to participate in the defense of any such Claims, without relieving Licensee of its obligations hereunder.

Licensee shall promptly provide, or cause to be provided, to the City of Chicago, Department of Law, at 121 N. LaSalle St., Room 600, Chicago, IL 60602, copies of such notices as Licensee may receive of any Claims for which the City Parties are entitled to indemnification hereunder and to give the City Parties authority, information, and assistance for the defense of any such Claims.

This Section 6 shall survive the expiration or termination of this Agreement (regardless of the reason for such termination).

7. **Insurance.** The Licensee must provide and maintain at Licensee's own expense, during the term of the Agreement and during the time period following expiration if Licensee is required to return and perform any additional services, the insurance coverage and requirements specified below, insuring all operations related to the Agreement.

A. INSURANCE TO BE PROVIDED

1) Workers Compensation and Employers Liability

Workers Compensation Insurance, as prescribed by applicable law covering all employees who are to provide work under this Agreement and Employers Liability coverage with limits of not less than \$500,000 each accident, illness or disease.

2) Commercial General Liability (Primary and Umbrella)

Commercial General Liability Insurance or equivalent with limits of not less than \$1,000,0000 per occurrence for bodily injury, personal injury, and property damage liability. Coverages must include the following: All premises and operations, products/completed operations, separation of insureds, mobile equipment, defense, and contractual liability (not to include Endorsement CG 21 39 or equivalent).

The City and others as required by contract are to be named as an additional insureds under the policy. Such additional insured coverage shall be provided on CG 2026 or a similar additional insured form acceptable to City. The additional insured coverage shall not have any limiting endorsements or language under the policy such as but not limited to, Exhibitors sole negligence or the Additional Insured's vicarious liability. Licensee's liability insurance shall be primary without right of contribution by any other insurance or self-insurance maintained by or available to the City. Licensee must ensure that the City is an additional insured on insurance required from subcontractors.

3) Automobile Liability (Primary and Umbrella)

When any motor vehicles (owned, non-owned and hired) are used in connection with services to be performed, the Licensee must provide Automobile Liability Insurance with limits of not less than \$1,000,000 per occurrence for bodily injury

4) Property

Licensee is responsible for all loss or damage to City property at full replacement cost.

The Licensee is responsible for all loss or damage to personal property (including materials, equipment, tools and supplies) owned, rented or used by Licensee.

B. ADDITIONAL REQUIREMENTS

The Licensee must furnish the City of Chicago, Department of Cultural Affairs and Special Events, Contract Administrator, Chicago Cultural Center, Room 400, 78 E. Washington Street 60602, original Certificates of Insurance and endorsement(s), or such similar evidence, to be in force on the date of this Agreement, and Renewal Certificates of Insurance or endorsement(s), or such similar evidence, if the coverages have an expiration or renewal date occurring during the term of this Agreement. The Licensee must submit evidence of insurance on the City of Chicago Insurance Certificate Form (copy attached) or equivalent prior to Agreement award. The receipt of any certificate does not constitute agreement by the City that the insurance requirements in the Agreement have been fully met or that the insurance policies indicated on the certificate are in compliance with all Agreement requirements. The failure of the City to obtain certificates or other insurance evidence from Licensee is not a waiver by the City of any requirements for Licensee to obtain and maintain the specified coverages. The Licensee must advise all insurers of the Agreement provisions regarding insurance. Non-conforming insurance does not relieve Licensee of the obligation to provide insurance as specified herein. Nonfulfillment of the insurance conditions may constitute a violation of the Agreement, and the City retains the right to stop work until proper evidence of insurance is provided, or the Agreement may be terminated.

Licensee must identify project title on the certificate of insurance.

Licensee must provide for 10 days prior written notice to be given to the City in the event coverage is substantially changed, canceled, or non-renewed.

Any deductibles or self insured retentions on referenced insurance coverages must be borne by Licensee.

Licensee hereby grants to the City a waiver of any right of subrogation which any insurer of said Licensee may acquire against the City by virtue of the payment of any loss under such insurance. Licensee agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer(s).

The coverages and limits furnished by Licensee in no way limit the Licensee's liabilities and responsibilities specified within the Agreement or by law.

Any insurance or self insurance programs maintained by the City do not contribute with insurance provided by the Licensee under the Agreement.

The required insurance to be carried is not limited by any limitations expressed in the indemnification language in this Agreement or any limitation placed on the indemnity in this Agreement given as a matter of law.

If Licensee maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the Licensee. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

If Licensee is a joint venture or limited liability company, the insurance policies must name the joint venture or limited liability company as a named insured.

The Licensee must require all subcontractors to provide the insurance required herein, or Licensee may provide the coverages for subcontractors. All subcontractors are subject to the same insurance requirements of Licensee unless otherwise specified in this Agreement. Licensee must ensure that the City is an additional insured on insurance required from subcontractors.

If Licensee or subcontractors desires additional coverages, the party desiring the additional coverages is responsible for the acquisition and cost.

Notwithstanding any provision in the Agreement to the contrary, the City of Chicago Risk Management Department maintains the right to modify, delete, alter or change these requirements.

8. **Inspection and Work.** Licensee agrees to carefully inspect, or cause its Agents to carefully inspect, each parcel of the Property prior to commencing any activities on the respective parcels to ensure that such activities will not damage the Property or the respective parcels or any surrounding property, structures, utility lines or subsurface lines or cables. Licensee and its Agents shall take all reasonable safety precautions to ensure that the Activity will not pose a danger to the public or have a negative impact on the neighboring community, including, without limitation, adequately securing the Property throughout the Term. Licensee and its Agents shall perform the Activity in a good and workmanlike manner with due care and diligence, and in accordance with all applicable Laws. Licensee and its Agents shall keep the Property and any adjoining sidewalks and streets free of debris and materials and generally in a clean and safe condition throughout the Term. Licensee and its Agents shall limit their activities to those reasonably necessary to perform the Activity. The City reserves the right to inspect the Activity throughout the Term. Neither Licensee nor its Agents shall conduct any activity on the Property that may in any manner injure the health, safety and welfare of the public, diminish the value of the Property, interfere with City operations, or violate any Laws, including, without limitation, any Environmental Laws (as hereinafter defined).

9. **Obligation to Restore the Property.** Upon completion of the Activity, Licensee shall promptly restore each respective parcel of the Property to the condition or better existing as of the Effective Date, and shall remove all Personal Property, trash, wastes and debris placed on the Property by Licensee or its Agents. Licensee shall dispose of all trash, wastes and debris in accordance with all applicable Laws, including without limitation, all applicable Environmental Laws (as hereinafter defined). Any Personal Property, trash, wastes or debris left by Licensee on or about the Property shall be considered abandoned and may be disposed of in the City's sole discretion. Licensee agrees to pay for any removal or disposal costs the City may incur. The City shall be reimbursed for all sums it pays in connection with this Agreement. Such reimbursement shall occur within fifteen (15) days of such City payment, with interest accruing from the date of such City payment at the rate of 12% per annum. Licensee shall be responsible for any damage to the Property or any surrounding property, structures, utility lines or subsurface lines or cables caused by the acts or omissions of Licensee or its Agents,

including but not limited to, vandalism or misuse of the Property, and shall undertake any repairs necessitated by such acts or omissions.

10. **No Liens.** Licensee shall not cause or permit any lien or encumbrance, whether created by act of Licensee or its Agents, operation of law or otherwise, to attach to or be placed upon the City's title or interest in the Property. In case of any such lien attaching, Licensee shall immediately pay and remove such lien. If Licensee fails to pay and remove any lien, the City, at the City's election, may, but is not obligated to, pay and satisfy same, and all sums so paid by the City shall be reimbursed by Licensee within fifteen (15) days of such payment with interest from the date of payment at the rate of 12% per annum.

11. **Reports.** Licensee agrees to promptly deliver to the City copies of all reports, surveys, field data, correspondence and analytical results prepared by or for Licensee regarding the condition of the Property if such documentation is prepared as part of the Activity.

12. **No Representations or Warranties; Release of City Parties.** The City makes no warranties or representations, express or implied, of any kind, as to the structural, physical or environmental condition of each respective parcel of the Property or the suitability of any parcels of the Property for any purpose whatsoever. Licensee, on behalf of itself and its Agents, agrees to enter upon the Property in the Property's "as is," "where is" and "with all faults" condition and at the Licensee's own risk. Licensee, on behalf of itself and its Agents, acknowledges that it is relying solely upon its own inspection and other due diligence activities and not upon any information (including, without limitation, environmental studies or reports of any kind) provided by or on behalf of the City or any of the City Parties with respect thereto. Licensee, on behalf of itself and its Agents, hereby releases, relinquishes and forever discharges the City and all City Parties from and against any and all Claims that Licensee or any of its Agents now have or hereafter may have, whether grounded in tort or contract or otherwise, in any and all courts or other forums, of whatever kind or nature, whether known or unknown, foreseen or unforeseen, based upon, arising out of or in any way connected with, directly or indirectly, (a) the structural, physical or environmental condition of the Property, including, without limitation, the presence or suspected presence of Hazardous Substances (as hereafter defined) in, on, under or about the Property, (b) the condition of title to the Property, including, without limitation, any easements, encroachments, covenants, restrictions of record and not shown of record, and any other title defects; and (c) any entry upon or use of the Property by or on behalf of Licensee or its Agents.

13. **Right to Terminate.** Notwithstanding anything to the contrary contained herein, either party may terminate this Agreement for any reason upon prior written notice of at least five (5) days to the other party. In addition, in the event of any breach of this Agreement by Licensee the City shall have the right to order Licensee to immediately cease all activities on the Property and to immediately vacate the Property until such breach is cured or the City may immediately terminate this Agreement and pursue any and all remedies available at law or in equity. The City also reserves the right to terminate this Agreement at any time if Licensee's use of the Property interferes with the City's use of the Property or with any other municipal purpose or interest, as determined by the City in its sole discretion.

14. **Hazardous Substances.** Licensee shall not use or store any Hazardous Substances (defined below) on the Property. Licensee shall promptly notify the City if Licensee discovers any Hazardous Substances on the Property. As used in this Agreement, the term "**Hazardous Substances**" shall mean any toxic substance, hazardous material, hazardous chemical or hazardous, toxic or dangerous waste defined or qualifying as such in (or for the purposes of) any Environmental Laws (as defined hereunder), or any pollutant, toxic vapor, or contaminant, and shall include, but not be limited to, polychlorinated biphenyls (PCBs), crude oil, any fraction thereof, or refined petroleum products such as oil, gasoline, or other petroleum-based fuels, lead paint, asbestos or asbestos-containing materials, urea

formaldehyde, any radioactive material or by-product material, radon and mold. “**Environmental Laws**” shall mean any and all Laws, permits and other requirements or guidelines of governmental authorities applicable to the Property and relating to the regulation and protection of human health, safety, the environment, natural resources or to any Hazardous Substances, including without limitation, any Laws requiring the filing of reports and notices relating to Hazardous Substances.

15. **Amendment.** This Agreement may not be amended, extended or modified without the written consent of the parties hereto.

16. **Captions.** The section headings in this Agreement are inserted for convenience of reference only and shall not in any way affect the meaning or construction of the Agreement.

17. **Entire Agreement.** This Agreement embodies the entire agreement and understanding between the parties and supersedes any prior oral or written agreements with respect to the matters stated herein.

18. **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original instrument and all of which together shall constitute one and the same instrument. A facsimile, electronic, or photocopy signature shall have the same legal effect as an original signature.

19. **No Other Rights.** This Agreement does not give Licensee any other right with respect to any of the parcels of the Property, including, but not limited to, closure of streets, sidewalks or other public thoroughfares. Any rights not specifically granted to Licensee by and through this Agreement are reserved exclusively to the City.

20. **No Further City Obligations.** The execution of this Agreement does not obligate the City to provide Licensee or Licensee’s Agents with any other assistance. Without limiting the generality of the foregoing, the City shall not provide any security, maintenance, or custodial services to the Property.

21. **Security; Full Liability.** Licensee assumes all legal and financial responsibility and liability for any and all uses of the Property by Licensee, its Agents, and any other person or persons entering the Property during the Term or upon the expiration of the Term where Licensee continues to access the Property. Licensee shall be responsible for properly securing and safeguarding each respective parcel of the Property and all Personal Property during the Term, and shall be liable for failing to so secure and safeguard each respective parcel of the Property and Personal Property. Licensee acknowledges that the City has no security responsibilities with respect to the Property or Personal Property under this Agreement. This Section 22 shall survive the expiration or earlier termination of this Agreement.

22. **No Principal/Agent or Partnership Relationship.** Nothing contained in this Agreement shall be deemed or construed by the parties hereto or by any third party as creating the relationship of principal and agent or of partnership or of joint venture between the parties hereto.

23. **No Alcohol or Drugs.** Licensee agrees that no alcoholic beverages or illegal drugs of any kind or nature shall be sold, given away, or consumed on the Property by Licensee or its Agents.

24. **Coordination and Oversight.** Licensee acknowledges that the City/DCASE will require coordination, which coordination may be necessary due to existing facilities, operations or other

particular circumstances. Licensee acknowledges that any assistance or oversight provided by the City with respect to the Activity shall be provided at the City's sole and exclusive discretion and convenience.

25. **City Use Paramount.** Licensee shall refrain from undertaking any activities that interfere with the City's use of the Property as determined by the City in its sole discretion. The City reserves the right to terminate Licensee's use of the Property at any time in the event such use interferes with the City's use of the Property or with any other municipal purpose or interest in the City's sole discretion.

26. **Time is of the Essence.** Time is of the essence for all obligations and deadlines contained in this Agreement.

27. **Assignment.** This Agreement may not be assigned by Licensee.

28. **Exhibits.** All exhibits referred to herein and attached hereto shall be deemed part of the Agreement.

29. **Non-Discrimination.** Licensee shall not discriminate against any person in connection with its use of the Property based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income as defined in the City of Chicago Human Rights Ordinance, Chapter 2-160, Section 2-160-010 et seq., Municipal Code.

30. **Severability.** If any provision of this Agreement is deemed to be unenforceable by any court of competent jurisdiction, it shall not affect the enforceability of any other provision.

31. **Governing Law; Consent to Jurisdiction.** This Agreement shall be governed and construed in accordance with the laws of the State of Illinois without reference to its conflicts of laws principles. Licensee waives any objection to the venue of any action filed in any court situated in the jurisdiction in which the Property is located.

32. **Licensee's Authority.** Licensee represents, warrants and covenants that it is duly organized, validly existing and qualified to do business in Illinois; that it has the right, power and authority to execute and deliver this Agreement and to perform its obligations hereunder; that the person signing this Agreement on behalf of Licensee has the authority to do so; and that this Agreement shall be binding upon and enforceable against Licensee in accordance with its terms.

33. **Fees.** Licensee shall pay an entrance fee in accordance with the fee schedule provided in Exhibit B of this agreement.

(Signature Page Follows)

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

CITY OF CHICAGO,
an Illinois municipal corporation and home rule unit of government

By: _____
Commissioner
Department of Cultural Affairs & Special Events

Signed By: _____

Print Name: _____

Title: _____

Company: _____

Date: _____

EXHIBIT A

Legal Description for 78 East Washington Street, Chicago, IL 60602, described as:

“That part of the Southwest Fractional Quarter of Section 10, Township 39 North, Range 34 East of the Third Principal Meridian, in Cook County, Illinois, bounded and described as follows: Commencing at a point 40 feet East of the Southeast corner of Block 12 in Fort Dearborn Addition to Chicago, (Laid out on said Fractional Quarter Section), thence East on the North line of Washington Street extended East to the West line of Michigan Avenue extended North; thence North along said West line 385 feet to the South line of Randolph Street extended east; thence West along said South line to a point 40 feet East of the Northeast corner of Block 12 aforesaid and thence South on a line parallel with the West Line of Michigan Avenue 385 feet to the place of beginning.”

EXHIBIT B:

The Expo component of Lake FX Summit + Expo runs on Friday April 17 and Saturday April 18, 2015 from 10am – 4pm at the Chicago Cultural Center, 78 E. Washington.

The Lake FX Expo is a resource fair that connects Chicago's creative community with top local and national services, spaces, information and networks. The Expo is free and open to the public. Based on past years, over the course of 2 days, 7,500+ participants will take 30+ workshops and meet with 140+ exhibitors. Exhibitors provide information only, sales are prohibited.

All exhibitors receive a table, 2 chairs, table linen, a tabletop sign and 2 badges with your organization name. Exhibitors must be present throughout the Expo. The Cultural Center is a historic building – please no tape on the walls and no helium balloons.

The attached Fee Schedule indicates the fee due for your participation and payment methods. Payment is due April 3, 2015.