



City Clerk

Room 318  
411 West First Street  
Duluth, Minnesota 55802

218-730-5500

**PERMIT TERMS AND CONDITIONS**

<b>FOR OFFICE USE ONLY</b>	
DATE	_____
LICENSE #	_____

Permittee: \_\_\_\_\_

Event Date: \_\_\_\_\_

Event Title: \_\_\_\_\_ (hereinafter the "Event")

**1. No Warranty**

The City makes no representation, either express or implied, as to merchantability or fitness for any particular uses, including but not limited to the Event, or other representations or warranties with respect to the condition of City real and personal property, facilities, apparatus, equipment, and services (collectively "the Premises"). Permittee accepts the Premises in an "as is" condition.

**2. Premises Supervision**

Permittee agrees that the Premises will be properly supervised and overseen by an employee or agent of Permittee with sufficient empowerment and decision making authority to act on behalf of Permittee. The name and cell phone number of such employee or agent shall be provided to City prior to the use of the Premises. Permittee shall provide City with a contact telephone number that will be answered at all times during the term of this Permit. Permittee shall also provide the City with the name and contact information of the person with the overall responsibility for the Event operation.

**3. Maintenance**

Permittee agrees to exercise reasonable care in the maintenance of the Premises during the term of this Permit. Permittee shall not make any alterations or improvements to the Premises without the prior written approval of the City Chief Administrative Officer, or his designee. Permittee shall surrender the Premises at the termination of this Permit in the condition found prior to the commencement of this Permit at no expense to City. Permittee agrees to pay upon demand any damages done to the Premises during the term of the Permit.

**4. Cleaning of Premises**

In the event that oil, other fluids, or other Hazardous Material have been deposited on the Premises by Permittee or its contractors or subcontractors during the term of this Permit, or if other debris or waste is left on the Premises by Permittee or its contractors or subcontractors, and an agency having proper jurisdiction requires clean up action, Permittee shall properly perform and leave the Premises in a condition complying with the agency's requirement. In the event that Permittee fails to so clean up the Premises, the City may cause such clean up and Permittee shall be responsible for all costs of clean up. Additionally, upon termination of this Permit, Permittee shall remove all garbage and debris of whatever nature from the Premises. In the event that Permittee fails to remove said garbage and debris, the City may cause such removal and Permittee shall be responsible for all said removal costs, paying immediately upon receipt of invoices.

## 5. City Access

The City expressly reserves the right to the unlimited access to the Premises for authorized personnel for the purpose of inspection and ensuring that the provisions of this Permit are complied with by Permittee.

## 6. Permit Fees and Charges

Permittee shall pay all licenses, fees, taxes, and assessments of any kind whatsoever that arise because of, out of, or in the course of Permittee's operations under this Permit. Permittee shall further be obligated to pay such fees on or before the date they are due to avoid any fees, fines or penalties that may be imposed by the City.

## 7. Independent Contractor

It is agreed that nothing herein contained is intended or should be construed in any manner as creating or establishing a relationship of co-partners between the parties hereto or of constituting Permittee or any of its officers, agents, servants, volunteers, contractors, representatives and employees as an officer, agent, servant, volunteer, contractor, representative or employee of the City for any purpose or in any manner whatsoever. Permittee's officers, agents, servants, volunteers, contractors, representatives and employees shall not be considered employees of the City, and any and all claims which may or might arise under the Workers' Compensation Act of the State of Minnesota on behalf of said officers, agents, servants, volunteers, contractors, representatives and employees while engaged in performing any work under this Permit, and any and all claims whatsoever on behalf of said officers, agents, servants, volunteers, contractors, representatives and employees arising out of employment, including, without limitation, claims of discrimination, shall in no way be the responsibility of the City. Permittee's officers, agents, servants, volunteers, contractors, representatives and employees shall not be entitled to any compensation or right or benefits of any kind whatsoever for leave or vacation pay, Workers' Compensation, Unemployment Insurance, disability pay or severance pay.

## 8. Indemnification Generally

The City shall not in any way be liable or responsible for any accident or damage that may occur in Permittee's use of the Premises during the term of this Permit. The Permittee agrees that it shall defend, indemnify and save harmless the City, its officers, agents, servants and employees from and against any and all claims, demands, suits, judgments, costs and expenses asserted by any person or persons including agents or employees of the City or the Permittee, by reason of the death of or injury to person or persons or the loss of or damage to property, or any cause of action arising out of or in connection with Permittee's use of the Premises. Additionally, Permittee agrees to defend, indemnify and save harmless the City for fines arising from violation of federal, state or local statutes, rules or regulations, including rules and regulations of the City by Permittee, its agents, employees or contractors arising out of, resulting from or incident to Permittee's use of the Premises. Permittee waives any cause of action against the City for any injuries or damages arising from noise on the Premises authorized by this Permit and releases the City from any liability arising from the same.

## 9. Environmental Liability

Permittee shall be responsible in all respects and shall indemnify and defend the City for Permittee's use of or Permittee's generation of, release or threatened release of any petroleum based substance or product, or any volatile organic compound, or any substance classified as a pollutant, contaminant, toxic substance, solid waste or a "hazardous waste" by either the Environmental Protection Agency of the Government of the United States or the Minnesota Pollution Control Agency. Permittee shall specifically be responsible for the disposition of all such waste or substances and for the environmental response activities and costs, monitoring, or cleanup of any environmental condition deemed by those agencies or either of them to require environmental response, monitoring or cleanup activities of any kind which arises out of Permittee's use of or Permittee's generation of such substances in its use of Premises; and Permittee specifically agrees that the obligations shall apply specifically to any costs or obligations of the City arising out of any such disposition, cleanup, or environmental response.

## 10. Indemnification Procedures

Promptly after receipt by the City of notice of the commencement of any action with respect to which Permittee is required to indemnify the City under this Article, the City shall notify Permittee in writing of the commencement thereof, and, subject to the provisions as hereinafter stated, Licensee shall assume the defense of such action, including the employment of legal counsel satisfactory to the City and the payment of expenses. In so far as such action shall relate to any alleged liability of the City with respect to which indemnity may be sought against Permittee, the City shall have the right to employ separate counsel in any such action and to participate in the defense thereof, and the fees and expenses of such separate counsel shall be at the expense of Permittee.

## 11. Insurance

During the term of this Permit, the Permittee shall provide Comprehensive General Liability Insurance with limits not less than one million dollars (\$1,000,000) Combined Single Limit, and shall be with a company approved by the City which approval will not be unreasonably withheld and shall provide for the following: Liability for Premises, Operations, Completed Operations, Personal Injury, Auto Liability, and Contractual Liability.

The City of Duluth shall be named as Additional Insured under the Liability, and Excess Umbrella Liability (An Umbrella policy with a "following form" provision is acceptable if written verification is provided that the underlying policy names the City of Duluth as an additional insured), or as an alternate, the Permittee may provide Owners-Contractors Protective policy, naming itself and the City. The Permittee to provide certificate of insurance evidencing such coverage with 30 days' notice of cancellation, non-renewal or material change provisions included and failure to give such notice to the City will render any such change or changes in said policy or coverages ineffective as against the City. The City does not represent or guarantee that these types or limits of coverage are adequate to protect the Permittee's interests and liabilities.

## 12. Compliance with Laws, Rules and Regulations

Permittee agrees to observe, comply and abide with all laws, ordinances, rules and regulations of the United States of America, the State of Minnesota and the City and their respective agencies which are applicable to its activities under this Permit, including but not limited to laws regarding unlawful discrimination.

## 13. Assignment

Permittee shall not assign its interest under this Permit or any part hereof.

## 14. Choice of Law

All questions concerning the interpretation or application of provisions of this Permit shall be decided according to the laws of the State of Minnesota. The appropriate venue and jurisdiction for any litigation hereunder shall be in a court located in Duluth, St. Louis County, Minnesota.

## 15. No Third Party Claims

This Permit is to be construed and understood solely as a Permit between the City and Permittee and shall not be deemed to create any rights in any other person. No person shall have the right to make claim that they are a third party beneficiary of this Permit or of any of the terms and conditions hereof, which, as between the City and Permittee.

## 16. Waiver

Any waiver by either party of any provision of this Permit shall not imply a subsequent waiver of that or any other provision.

17. Limitation of Liability

The liability of the City shall be governed by the provisions of the Minnesota Municipal Limitation of Liability Statute, Minnesota Statutes, Section 466 et. seq.

18. Entire Agreement

This Permit constitutes the entire agreement between parties and supersedes all prior written and oral agreements and negotiations between the parties relating to the Premises.

THE UNDERSIGNED INDIVIDUAL(S), GROUP AND/OR ORGANIZATION(S) CERTIFY THAT THE INFORMATION PROVIDED IN THIS PERMIT APPLICATION IS TO THE BEST OF THEIR KNOWLEDGE TRUE AND CORRECT, AND THAT THEY HAVE READ AND AGREE TO THE PERMIT TERMS AND CONDITIONS LISTED ABOVE.

Authorized Representative

\_\_\_\_\_  
Date: \_\_\_\_\_