

Wade Show Attractions

Fiesta 2021 Carnival Schedule & Agreement – ATTACHMENT 3

Day	Date	Hours of Operation	Description
Thursday	June 17, 2021	5:00 p.m. until 11:00 p.m.	"Dollar Day"
Friday	June 18, 2021	5:00 p.m. until 12:00 midnight	"Pay One Price" \$25.00 Wrist Band Night
Saturday	June 19, 2021	5:00 p.m. until 12:00 midnight	"Pay One Price" \$25.00 Wrist Band Night
Sunday	June 20, 2021	5:00 p.m. until 11:00 p.m.	"Pay One Price" \$25.00 Wrist Band Night
Monday	June 21, 2021	5:00 p.m. until 11:00 p.m.	"Pay One Price" \$22.00 Wrist Band Night
Tuesday	June 22, 2021	5:00 p.m. until 11:00 p.m.	"Pay One Price" \$22.00 Wrist Band Night
Wednesday	June 23, 2021	5:00 p.m. until 11:00 p.m.	"Pay One Price" \$22.00 Wrist Band Night
Thursday	June 24, 2021	5:00 p.m. until 11:00 p.m.	"Dollar Day"
Friday	June 25, 2021	5:00 p.m. until 12:00 midnight	"Pay One Price" \$25.00 Wrist Band Night
Saturday	June 26, 2021	5:00 p.m. until 12:00 midnight	"Pay One Price" \$25.00 Wrist Band Night
Sunday	June 27, 2021	5:00 p.m. until 11:00 p.m.	"Pay One Price" \$25.00 Wrist Band Night



CITY OF SAN ANTONIO  
**ALAMODOME**

## ALAMODOME LICENSE AGREEMENT

### 2021-2024 FIESTA CARNIVAL

06/17/21 – 06/27/21  
03/31/22 – 04/10/22  
04/20/23 – 04/30/23  
04/18/24 – 04/28/24

THIS AGREEMENT, dated this \_\_\_\_\_ day of \_\_\_\_\_, 2021, by and between City of San Antonio, Texas, a municipal corporation of the State of Texas, acting by and through its General Manager of the Alamodome/Convention & Sports Facilities, or his designee, hereinafter called "CITY" and **Fiesta San Antonio Commission, Inc.**, hereinafter called "LICENSEE", located at 2611 Broadway, San Antonio, TX 78215, to set forth the agreements, covenants and provisions set forth herein.

#### WITNESSETH:

#### Recitals

WHEREAS, CITY is the owner and operator of the Alamodome Stadium in San Antonio, Texas, and,  
WHEREAS, LICENSEE and CITY desire to enter into an agreement specifying the terms and conditions under, which LICENSEE will use the Alamodome for presentation of the **2021-2024 Fiesta Carnival** and all related activities.

NOW, THEREFORE, for and in consideration of the mutual agreements herein contained, the parties hereto agree as follows:

#### ARTICLE ONE Definitions

All words in this Agreement bearing initial capitals, other than proper nouns, section headings, or words required to be capitalized for proper usage, are defined terms and shall have the meanings specifically assigned to them in this article.

As used in this Agreement, the following terms and words are hereby defined as follows:

1.1 Alamodome means the multi-purpose domed stadium, located in San Antonio, Texas, providing approximately 160,000 square feet of gross floor space, seating for approximately 65,000 people and the northeast, southeast and south parking lots, operated by CITY and situated at 100 Montana Street. Areas reserved to others are excluded; specifically the Alamodome Executive Suites, certain Club Seats, Administration Offices, and such other areas as are reserved by third parties under contract with CITY.

1.2 Alamodome Video Wall System and Scoreboard means the electronic color video display screens, scoreboards, and message boards located in the interior of the Alamodome.

1.3 Building License Payment shall mean the rental cost to LICENSEE for the use of the Alamodome for the Event.

1.4 Catered Event shall mean any event, assembly, function or similar gathering for which LICENSEE requests CITY'S Licensed Caterer to provide Catering Services.

1.5 Catering Services shall mean the service of food and/or beverage (but excluding service in the Hall of Fame Club, concession services and restaurant operation) in the Alamodome and at areas outside the Alamodome first approved by CITY in writing, where the selection, quantity, quality, location and/or presentation of food and beverage items to be offered for sale or service is determined by LICENSEE.

1.6 CITY means San Antonio, a municipal corporation of the State of Texas.

1.7 Communication System/Services means audio, video and cablecast, and voice and data systems and other miscellaneous communication equipment on the Alamodome property. Alamodome Communications is the sole provider of Communication Services. The term "Communication System" does not include the public address system and the sound system in the Alamodome.

1.8 Concessions shall mean the sale of food, beverages and souvenir or novelty items through concession points of sale, either fixed or portable, or through vendors "hawking" products to event attendees where the attendee pays the food or beverage server at the time of sale.

1.9 Egress means the exit from the stadium of people attending the event or moving out of an event.

1.10 Event means the **2021-2024 Fiesta Carnival** and its related activities.

1.11 Event Manager of the Alamodome/Convention & Sports Facilities means the Event Manager of the Alamodome/Convention & Sports Facilities or his designee.

1.12 Event Settlement Statement means a statement, to be transmitted by CITY to LICENSEE, setting forth the total License fee and additional services cost to be paid by LICENSEE to CITY under the terms of this Agreement.

1.13 Facility Access Fee means a fee which shall be added to the price of each event ticket beyond any taxes or service charges assessed by LICENSEE or CITY'S ticket distributor, regardless of whether such ticket is sold at full value, or discounted, in accordance with authority granted by City Council Ordinance.

1.14 General Manager of the Alamodome/Convention & Sports Facilities means the General Manager of the Alamodome/Convention & Sports Facilities or his designee.

1.15 Ingress means the entry of people having tickets or other valid authorization for entry into the stadium to attend an event, or the moving in of an event.

1.16 LICENSEE means **Fiesta San Antonio Commission, Inc.**

1.17 Renewal and Improvement Fee means a fee which shall be added to the price of each event ticket beyond any taxes or service charges assessed by LICENSEE or CITY'S ticket distributor, regardless of whether such ticket is sold at full value or discounted, in accordance with authority granted by City Council Ordinance.

1.18 Suites shall mean the private luxury suites located on the Club Level of the Alamodome.

1.19 Term means the period of this Agreement set forth in Article Three.

1.20 Ticket Sales means gross revenues derived from paid attendance to the Event during the Term of the Agreement less any applicable taxes.

1.21 Ticket Service Charge Fee means a fee which shall be added to the price of each event ticket beyond any taxes or service charges assessed by LICENSEE or CITY'S ticket distributor, regardless of whether such ticket is sold at full value or discounted, in accordance with authority granted by City Council Ordinance.

1.22 Ticket Distribution Plan means the distribution and delivery of Event tickets as designated by LICENSEE.

1.23 Use Days means total number of days utilized by LICENSEE under the terms of this Agreement.

## ARTICLE TWO

### Scope

2.1 Scope of Event. The Event shall be the **2021-2024 Fiesta Carnival** and shall include all the related activities. Along with signing of the agreement LICENSEE shall provide to CITY a complete Scope of the Event for the term of the agreement which shall be subject to approval by CITY. It is understood by LICENSEE that the Event shall include only the activities set forth in the Scope of Event and any changes must receive the prior written approval of the Alamodome. If changes to Scope of Event are made by the LICENSEE without prior Alamodome approval, the CITY, at its option, shall have the right to terminate the license agreement.

2.2 Scope of Use. The following areas will be used for the purpose of the **2021-2024 Fiesta Carnival: Parking Lot C of the Alamodome.**

2.3 Changes in Scope. Should LICENSEE elect to change the format of the Event from the collective uses outlined throughout this Agreement without prior Alamodome approval, CITY, at its option, shall have the right to terminate this Agreement.

### ARTICLE THREE

#### Term

3.1 Term & Use Days. **The Term and Use Days shall commence and conclude as shown below:**

**Monday, June 14, 2021 – Wednesday, June 30, 2021**  
**Monday, March 28, 2022 – Wednesday, April 13, 2022**  
**Monday, April 17, 2023 – Wednesday, May 3, 2023**  
**Monday, April 15, 2024 – Wednesday, May 1, 2024**

3.2 Event Days. **Event Days for the 2021-2024 Fiesta Carnival are shown below:**

**Thursday, June 17, 2021 – Sunday, June 27, 2021**  
**Thursday, March 31, 2022 – Sunday, April 10, 2022**  
**Thursday, April 20, 2023 – Sunday, April 30, 2023**  
**Thursday, April 18, 2024 – Sunday, April 28, 2024**

3.3 Ingress/Egress Days. **Ingress begins at 6:00 a.m., and Egress ends at 11:59 p.m., in accordance to the dates shown below:**

#### Ingress Days

**Monday-Wednesday, June 14-16, 2021**  
**Monday-Wednesday, March 28-30, 2022**  
**Monday-Wednesday, April 17-19, 2023**  
**Monday-Wednesday, April 15-17, 2024**

#### Egress Days

**Monday-Wednesday, June 28-30, 2021**  
**Monday-Wednesday, April 11-13, 2022**  
**Monday-Wednesday, May 1-3, 2023**  
**Monday-Wednesday, April 29-May 1, 2024**

### ARTICLE FOUR

#### Payment

4.1 Amount of Payment.

LICENSEE agrees to the following provisions and will provide at its' own cost:

- a. Construct and build booths, stands, and other physical facilities in the Carnival Site as are reasonably necessary in order to conduct its business operations under the license hereby granted provided such structures do not materially interfere with and obstruct any CITY streets, unless previously authorized by CITY.
- b. LICENSEE understands and agrees that CITY shall have final approval of all locations for Carnival and Concession activities with the Carnival site.
- c. No monuments, trees, landscaping, or directional signage may be removed or altered.
- d. LICENSEE shall be granted three ingress days and three egress days immediately following the last day of the Carnival for the purpose of preparation, construction, moving, and cleanup.

- e. Clean-up and restore Parking Lot B, Parking Lot C, the center walkway separating Parking Lot B and Parking Lot C, and the property located 50 feet east of the Carnival fence line on Cherry Street at the conclusion of each day as listed in Article 3.2. All areas should be cleaned to include, but not limited to, clean-up and removal of all trash and debris, replacement of damaged landscaping, and repairing or replacing other damaged real or personal property by 10:00 a.m., following each day as listed in Article 3.2. If the CITY determines in its sole discretion that such clean-up and restoration of the parcels are not progressing properly and/or timely, then LICENSEE hereby grants authority to CITY to enter upon such locations and proceed to clean-up and restore to proper condition at LICENSEE'S expense and LICENSEE will be invoiced for all staff hours and costs incurred.
- f. Restore the Carnival Site to the same condition after conclusion of the Carnival each year as it was immediately prior to commencement of the Carnival, including, but not limited to, clean-up and removal of all trash and debris, replacement of damaged landscaping, and repairing or replacing other damaged real or personal property.
- g. LICENSEE and CITY shall meet on the first day at the conclusion of the term as listed in Article 3.1 to determine compliance of clean-up and restoration.
- h. LICENSEE shall ensure compliance and post a performance bond in favor of the CITY for restoration and clean-up as provided for in Article 17.17.
- i. If the CITY determines in its sole discretion that such clean-up and restoration of the parcels are not progressing properly and/or timely, then the LICENSEE hereby grants authority to CITY to enter upon such locations and proceed to clean-up and restore to proper condition, in which event the LICENSEE acknowledges and agrees to forfeit the performance bond and reimburse the CITY for all additional expenses not covered by the performance bond, including but not limited to, labor (including all overtime pay), materials, equipment, and supervision in accomplishing a proper and timely clean-up and restoration.
- j. LICENSEE shall be financially responsible for any and all damage or destruction to CITY owned personal and/or real property within the Carnival Site. In the event of such damage, LICENSEE shall pay in money for the cost of repairs to completely restore the property to its undamaged condition, or, in the event such restoration is not possible, as determined in the sole discretion of the CITY, LICENSEE shall pay the full replacement value of the property. This provision is not and should not be construed as a limitation of legal remedies available.
- k. LICENSEE understands and agrees that the possession or sale of any beer, soft drink, or other beverage, other than in a plastic, paper container or aluminum cans/bottle shall be prohibited. If alcoholic beverages are sold after 10:00 p.m., LICENSEE must cease selling such beverages no later than one (1) hour before the Carnival closes each day.
- l. LICENSEE understands and acknowledges that the Carnival is limited to a maximum crowd limit established by the Fire Department of the CITY and that LICENSEE shall be responsible for enforcement of this limit and for providing fire lanes within the footprint of Parking Lot C and all required fire appliances and personnel as prescribed by the Fire Code, if any. LICENSEE shall invite a representative of the Fire Marshall to attend all meetings with any sub licensees to insure that all fire prevention regulations are met.

- m. LICENSEE shall be responsible for ensuring that neither it nor its sub licensees block lanes of traffic designated as fire lanes or other emergency access lanes. Violation of a provision of the Fire Code, failure to follow the orders of the Fire Marshal, or failure to ensure that access for emergency vehicles is provided at all times shall be an event of default for which CITY may immediately terminate this Agreement.
  - n. LICENSEE shall be responsible for providing all barricades, detour and traffic control signs, in conformance with current CITY standards for the Carnival Site. A traffic and Carnival Site control plan shall be submitted to CITY by LICENSEE, which shall then be submitted and coordinated with the Department of Public Works and the Police Department, for approval, a minimum of five (5) days prior to Fiesta. Such plan will include and identify location of all rides, amusements, food booths, site fencing on carnival perimeter with mesh facing and associated apparatus used in the operation of the Carnival. Fencing and mesh facing must be completely installed at least 1 hour prior to public admission.
  - o. LICENSEE shall be responsible for paying all inspection and permit fees in accordance with CITY ordinances and complying with all rules, regulations, ordinances and health requirements as are applicable to the subject matter of this Agreement. LICENSEE shall cooperate fully with such inspectors and promptly adopt or incorporate recommendations which will improve safety or operation of Fiesta. LICENSEE shall require all sub licensees engaged in the sale of foods or beverages to obtain a valid license or permit from the Metropolitan Health District of the CITY.
  - p. LICENSEE shall be responsible for placement, payment, and provision of adequate number of chemical toilets for the Carnival Site.
  - q. LICENSEE agrees to provide a Certificate of Liability including the Endorsement Page from the policy where the CITY is added as an additional insured, either specifically named or a blanket endorsement. The certificate alone is not evidence of coverage for the City of San Antonio.
  - r. LICENSEE shall be responsible for installation and operation of an on-site first aid station during all days and hours the carnival is open.
- 4.2 LICENSEE will retain the following:
- a. LICENSEE shall have the right to operate the Carnival with Midway, and include but not limited to games, rides(including Mechanical bulls, trampoline and Celcro walls). LICENSEE shall have the right to have children zoos, music concerts, promotions/demonstrations, photo booths, vendor placement/shows, craft sales and other related activities. Also, LICENSEE shall have the right to sell concession food and beverages, novelties, and merchandise at carnival booths and/or concession stands within the Carnival Site and retain all revenues. Any other uses will require CITY approval.
  - b. LICENSEE shall have the right to operate electronic games within the Carnival Site and retain all revenues.

ARTICLE FIVE

5.1 Amount of Payments.

(a) Parking Lot License Payment. In consideration of this Agreement, LICENSEE shall pay CITY a Parking Lot License Payment of **Seventy Thousand Dollars (\$70,000.00) for 2021 and One Hundred Three Thousand Dollars (\$103,000) in 2022 with a Three Percent (3%) increase for every year following. Future payments: 2022 license fee is \$103,000.00; 2023 license fee is \$106,090.00; 2024 license fee is \$109,272.00.. License Payment shall be due in the full amount no later than Thirty (30) Days prior to the event.**

(b) Other Services. Services not included in the Parking Lot License Payment include, but shall not be limited to, **barricades, cleaning services and laborers, electrical services and technicians, fencing, inspections, insurances, medical, overnight security, permits from Metropolitan Health District, port-o-lets, San Antonio permits in accordance with City ordinances, San Antonio Police Officers, San Antonio Fire Marshals, stagehands, temporary/special lighting, telecommunication services, trash receptacles, video production services, other equipment, staffing services, other services and technicians required for Event. LICENSEE shall be responsible for payment of these services as required for the presentation of the Event.**

5.2 Time of Payments.

(a) Payments for Use and Other Services Fees. LICENSEE shall pay to CITY the Parking Lot License Payment stipulated in Paragraph 5.1(a) and the payment for Other Services stipulated in Paragraph 5.1(b).

(b) Security Deposit. **LICENSEE shall pay CITY a security deposit of Ten Thousand Dollars (\$10,000.00) June 1<sup>st</sup> for 2021 and February 1<sup>st</sup> of each year beginning 2022 the Fiesta Carnival is held at the Alamodome Carnival Site.**

(c) Additional Deposit Payments. It is expressly understood that CITY, prior to LICENSEE'S Event, may require additional deposit payment(s) to satisfy LICENSEE'S obligations under this Agreement.

ARTICLE SIX  
Utilities

6.1 Utilities. **Utilities are not available in any of the parking lots located at the Alamodome. LICENSEE shall provide at LICENSEE'S expense all utilities it requires for the duration of the Event.**

ARTICLE SEVEN  
Parking

7.1 Parking. **CITY will have available all of Parking Lot A and three quarters of the north end of Lot B. San Antonio Metro Health Department will have one quarter of the south end of Lot B reserved and designated for the vaccine operations and off limits to the LICENSEE and Carnival operations. CITY reserves the right to operate and receive all income from Parking Lots A and three quarters portion of Lot B for the duration of the Event.**

7.2 LICENSEE Parking on Use Day. **LICENSEE shall NOT have the right to use, without charge, any parking spaces in the Parking Lots A and B during the Event presented under this Agreement.**

7.3 Public Parking on Event Days. The Alamodome parking lots will be available for public parking on all Event days in accordance with the City Code of San Antonio. Public parking rates shall be Ten Dollars

(\$10.00) per parking space for this Event for standard vehicles and for buses/15-passenger vans through 2021. The parking fees after 2021 shall be re-negotiated and submitted via addendum to this agreement should rates increase. **CITY shall have the right to increase the parking rate should the Alamodome host event(s) during the term.** The Alamodome does not allow in and out parking privileges.

ARTICLE EIGHT  
Stadium Personnel and Services

8.1 Event Staffing.

(a) **LICENSEE shall provide personnel, reasonably necessary for the operation of the Alamodome for this Event, as set forth in Article 5.1 (b).**

(b) San Antonio Police Officers and San Antonio Fire Marshals. **LICENSEE acknowledges that it shall be responsible for employing police officers and fire marshals, and for paying the costs of such services in advance of each annual presentation of the Event. LICENSEE will be billed, in advance, directly from the San Antonio Police Department Off-Duty Employment Unit and the San Antonio Fire Department for estimated costs associated with employing security and fire personnel for the Event.**

ARTICLE NINE  
Concession and Novelty Revenues

9.1 Concessions. **Subject to Alamodome approval, LICENSEE reserves the right to operate and receive all of the income from concessions sold within the Carnival Site. Such concessions shall include, but not be limited to, the dispensing or sale of food and beverages.**

9.2 Non-Alcoholic Beverages. **LICENSEE agrees that all non-alcoholic beverages dispensed and sold shall be of Pepsi product and no other. CITY currently retains an exclusive agreement with Pepsi that does not allow any other product to be dispensed or sold on all Alamodome property. Should pouring rights or non-alcoholic beverages agreement change within the contract year with the CITY, LICENSEE shall be informed immediately and agrees to make appropriate changes on the dispensing and sales of non-alcoholic beverages through the contract years.**

9.3 Novelties. **Subject to Alamodome approval, LICENSEE may sell souvenirs, merchandise, novelties, programs, and operate electronic games within the Carnival Site, which directly relate to the Event. All revenues collected shall belong to the LICENSEE.**

9.4 Concession Area. **LICENSEE understands and agrees that CITY shall have final approval of all the locations for the Carnival and Concession activities within the Carnival Site.**

ARTICLE TEN  
Damages, Risk and Security

10.1 Damages. **If the Alamodome premises, or any portion thereof, including any of its fixtures, furniture or furnishings, during the term of this Agreement shall be damaged by the act, default or negligence of LICENSEE, or of LICENSEE'S agents, employees, subcontractors, vendors, patrons, guests, or any person admitted to the Alamodome premises by LICENSEE, LICENSEE will pay to CITY, upon demand, such sum as shall be necessary to restore the Alamodome premises to its present condition. The Event Manager of the Alamodome/Convention & Sports Facilities or his designee shall determine whether any damage has been done, the amount of the damage, the reasonable cost of repairing it, and whether, under the terms of this Agreement, LICENSEE is to be held responsible. CITY reserves the right to withhold from final settlement an amount sufficient to cover all or part of such damages.**



10.2 Risk and Security. LICENSEE assumes all risk of damage to its property and/or the loss by theft or otherwise, of any property of LICENSEE, its employees, and/or its exhibitors, and no claim shall be made upon CITY because of any such loss unless same is due to (i) the sole negligence of CITY or (ii) an intentional or willful tort committed by CITY as determined by a Court of Law. LICENSEE shall be responsible for the provision of security during the term of this Agreement for any property brought onto the Alamodome grounds by LICENSEE, its employees, and/or its purveyors.

ARTICLE ELEVEN  
Copyrighted Material

11.1 Copyrighted Usage. LICENSEE agrees to obtain all necessary licenses and take all other necessary steps to insure that all use of copyrighted materials in the Alamodome during the term of the Agreement complies with United States and any other applicable copyright law.

11.2 Indemnification. LICENSEE agrees to **INDEMNIFY and DEFEND at its own expense CITY, its officials, agents and employees from any and all liability arising from copyright infringement and/or consequential damages that others may suffer as a result of the use by LICENSEE or its designee of copyrighted materials in the Alamodome during the term of this Agreement.**

ARTICLE TWELVE  
Advertising

12.1 Rights. It is understood by LICENSEE that CITY is responsible for contracting all commercial advertising rights throughout the interior Alamodome premises to various advertisers for valuable consideration. To protect the advertising rights of CITY and its advertisers, only the following methods of promotion and commercial advertising by LICENSEE and any Event sponsors on the Alamodome premises shall be permitted:

(a) Display of products and services by exhibitors in connection with trade or consumer shows or business conventions.

(b) Advertising in Event programs, on Event tickets, or in other similar Event materials.

(c) If the Event is broadcast, the broadcast station can display one (1) temporary identification banner. If additional banners are to be displayed, a proposed display plan will be presented to the General Manager of the Alamodome/Convention & Sports Facilities or his designee for approval prior to the Event. The type, location, installation, and removal of banner(s) must receive prior CITY approval. In any event, all temporary advertising is subject to the non-alcoholic advertising restrictions below.

(d) Event sponsor identification including banners, temporary panels, and other types of promotional items and displays and visual acknowledgment during the Event. **The type, content, location, installation, and removal of sponsor identification must receive prior approval from the General Manager of the Alamodome/Convention & Sports Facilities or his designee.**

12.2 Exclusive Rights. Notwithstanding anything to the contrary set forth herein, CITY and LICENSEE agree that at all times during the Event, the non-alcoholic beverage advertisers of CITY (the "Advertisers") shall have the following exclusive rights:

(a) the exclusive non-alcoholic beverage pouring rights for the Alamodome and all parking lots south of Montana Street, walkways, driveways and plaza areas included within the Alamodome complex; and

(b) the exclusive right to all non-alcoholic beverages advertising in any form placed in the Alamodome and all parking lots, walkways, driveways and plaza areas included within the Alamodome complex.

12.3 Exceptions. No exceptions to the above methods of promotion and commercial advertising shall be permitted during the Term without prior approval of CITY. LICENSEE shall be responsible for communicating the terms of this Article to the Event sponsors and for full compliance with the restrictions stated herein. **CITY shall be allowed to use LED signage technology or similar device for the purpose of advertising upcoming events in the Alamodome during this Event, during intermission, and prior to and after the actual Event show hours.**

ARTICLE THIRTEEN  
Insurance

13.1 Prior to the commencement of any work under this Agreement, LICENSEE shall furnish, thirty (30) days prior to the 1<sup>st</sup> ingress day of the Event unless cleared in writing by the Convention, Sports, & Entertainment General Manager, copies of all required endorsements and an original completed Certificate(s) of Insurance, which shall be clearly labeled “**2021-2024 Fiesta Carnival**” in the Description of Operations block of the Certificate. The Certificate(s) shall be completed by an agent and signed by a person authorized by that insurer to bind coverage on its behalf. CITY will not accept Memorandum of Insurance or Binders as proof of insurance. The certificate(s) or form must have the agent's signature and phone number, and be mailed, with copies of all applicable endorsements, directly from the insurer's authorized representative to CITY. CITY shall have no duty to pay or perform under this Agreement until such certificate and endorsements have been received and approved by CITY'S Convention, Sports and Entertainment Department. No officer or employee, other than CITY'S Risk Manager, shall have authority to waive this requirement.

13.2 CITY reserves the right to review the insurance requirements of this Article during the effective period of this Agreement and any extension or renewal hereof and to modify insurance coverages and their limits when deemed necessary and prudent by CITY'S Risk Manager based upon changes in statutory law, court decisions, or circumstances surrounding this contract. In no instance will CITY allow modification whereupon CITY may incur increased risk.

13.3 A Licensee's financial integrity is of interest to CITY; therefore, subject to LICENSEE'S right to maintain reasonable deductibles in such amounts as are approved by CITY, LICENSEE shall obtain and maintain in full force and effect for the duration of this Agreement, and any extension hereof, at LICENSEE'S sole expense, insurance coverage written on an occurrence basis, by companies authorized and admitted to do business in the State of Texas and with an A.M. Best's rating of no less than A- (VII), in the following types and for an amount not less than the amount listed:

<u>TYPE</u>	<u>AMOUNT</u>
1. Workers' Compensation Employers' Liability (when applicable)	Statutory \$1,000,000/\$1,000,000/\$1,000,000
2. Commercial General Liability Insurance (Broad Form) for bodily injury and property damage to include coverage of limits of \$2,000,000 aggregate with \$1,000,000 per occurrence for the following:  a. Premises operations b. Independent contractors c. Products/completed operations d. Personal Injury e. Contractual liability f. *Child Abuse/Molestation	
3. Business Automobile Liability Insurance (when applicable) with combined single limit coverage of \$1,000,000 per occurrence for the following:	

- (1) Owned/leased vehicles
- (2) Non-owned vehicles
- (3) Hired vehicles

\*If Applicable

- 4. Professional Liability \$1,000,000 per claim to pay on behalf of the insured all sums which the insured shall become legally obligated to pay as damages by reason of any act, malpractice, error or omission in professional services.
- 5. Liquor Legal Liability \$1,000,000 per occurrence; \$2,000,000 General Aggregate
- 6. Property Insurance – LICENSEE and/or its Concessionaires will be responsible for their own property and equipment at their own expense.

13.4 LICENSEE agrees to require, by written contract, that all subcontractors providing goods or services hereunder obtain the same insurance coverages required of LICENSEE herein, and provide a certificate of insurance and endorsement that names LICENSEE and CITY as additional insureds. Respondent shall provide CITY with said certificate and endorsement prior to the commencement of any work by the subcontractor. This provision may be modified by CITY's Risk Manager, without subsequent City Council approval, when deemed necessary and prudent, based upon changes in statutory law, court decisions, or circumstances surrounding this Agreement. Such modification may be enacted by letter signed by CITY's Risk Manager, which shall become a part of the contract for all purposes.

13.5 As they apply to the limits required by the City, the CITY shall be entitled, upon request and without expense, to receive copies of the policies, declarations page and all endorsements thereto, and may require the deletion, revision, or modification of particular policy terms, conditions, limitations or exclusions (except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter of any such policies). LICENSEE shall be required to comply with any such requests and shall submit a copy of the replacement certificate of insurance to CITY at the address provided below within 10 days of the requested change. LICENSEE shall pay any costs incurred resulting from said changes.

City of San Antonio  
Attn: Convention & Sports Facilities - Alamodome  
100 Montana Street  
San Antonio, Texas 78203-1033

13.6 LICENSEE agrees that with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following required provisions:

- Name CITY and its officers, officials, employees, volunteers, and elected representatives as additional insureds by endorsement, as respects operations and activities of, or on behalf of, the named insured performed under contract with CITY, with the exception of the workers' compensation and professional liability policies;
- Provide for an endorsement that the "other insurance" clause shall not apply to CITY where the CITY is an additional insured shown on the policy;
- Workers' compensation, employers' liability, general liability and auto liability policies will provide a waiver of subrogation in favor of CITY; and

- Provide advance written notice directly to CITY of any suspension, cancellation, non-renewal or material change in coverage, and not less than ten (10) calendar days advance written notice for nonpayment of premium.

13.7 Within five (5) calendar days of a suspension, cancellation, or non-renewal of coverage, LICENSEE shall provide a replacement Certificate of Insurance and applicable endorsements to CITY. CITY shall have the option to suspend LICENSEE'S performance should there be a lapse in coverage at any time during this Agreement. Failure to provide and to maintain the required insurance shall constitute a material breach of this Agreement.

13.8 In addition to any other remedies CITY may have upon LICENSEE'S failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, CITY shall have the right to order LICENSEE to stop work hereunder, and/or withhold any payment(s) which become due to LICENSEE hereunder until LICENSEE demonstrates compliance with the requirements hereof.

13.9 Nothing herein contained shall be construed as limiting in any way the extent to which LICENSEE may be held responsible for payments of damages to persons or property resulting from LICENSEE'S or its subcontractors' performance of the work covered under this Agreement.

13.10 It is agreed that LICENSEE'S insurance shall be deemed primary and non-contributory with respect to any insurance or self insurance carried by the City of San Antonio for liability arising out of operations under this Agreement.

13.11 It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this Agreement.

13.12 LICENSEE and any subcontractor are responsible for all damage to their own equipment and/or property.

#### ARTICLE FOURTEEN INDEMNIFICATION

**14.1 LICENSEE covenants and agrees to INDEMNIFY, DEFEND and HOLD HARMLESS CITY, ITS ELECTED OFFICIALS, OFFICERS AND EMPLOYEES against any and all claims, lawsuits, judgments, cost, liens, losses, expenses, fees (including attorney's fees and costs of defense), proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal injury (including death), property damage, or other harm for which recovery of damages is sought that may ARISE OUT OF OR BE OCCASIONED OR CAUSED BY THE NEGLIGENT ACT, ERROR, OR OMISSION OF LICENSEE, ANY AGENT, OFFICER, DIRECTOR, REPRESENTATIVE, EMPLOYEE, CONTRACTOR OR SUBCONTRACTOR OF LICENSEE, AND THEIR RESPECTIVE OFFICERS, AGENTS, EMPLOYEES, DIRECTORS AND REPRESENTATIVES. THE INDEMNITY PROVIDED FOR IN THIS SECTION SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE NEGLIGENCE OF CITY, ITS ELECTED OFFICIALS, OFFICERS OR EMPLOYEES. IN THE EVENT LICENSEE AND CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.**

**14.2 The provisions of this INDEMNIFICATION are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.**

**14.3 LICENSEE shall advise CITY in writing within 24 hours of any claim or demand against CITY or LICENSEE known to LICENSEE related to or arising out of LICENSEE'S activities under this AGREEMENT.**

**14.4 Defense Counsel** - CITY shall have the right to select or to approve defense counsel to be retained by LICENSEE in fulfilling its obligation hereunder to defend and indemnify CITY, unless such right is expressly waived by CITY in writing. LICENSEE shall retain CITY approved defense counsel within seven (7) business days of CITY'S written notice that CITY is invoking its right to indemnification under this Agreement. If LICENSEE fails to retain Counsel within such time period, CITY shall have the right to retain defense counsel on its own behalf, and LICENSEE shall be liable for all costs incurred by CITY. CITY shall also have the right, at its option, to be represented by advisory counsel of its own selection and at its own expense, without waiving the foregoing.

**14.5 Employee Litigation** – In any and all claims against any party indemnified hereunder by any employee of LICENSEE, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation herein provided shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for LICENSEE or any subcontractor under worker's compensation or other employee benefit acts.

#### ARTICLE FIFTEEN Miscellaneous

**15.1 Powers of the CITY**. Nothing contained in this Agreement shall be considered to diminish the governmental or police powers of CITY.

**15.2 Removal of Persons**. CITY reserves the right to eject or cause to be ejected from the Alamodome premises, any person or persons violating the rules or regulations of the Alamodome or any CITY, County, or State law; and neither CITY nor any of its officers, agents, or employees shall be liable to LICENSEE for any damages that may be sustained by LICENSEE through the exercise by CITY of such right.

**15.3 Force Majeure**. If the (a) Alamodome or any portion thereof be destroyed or damaged by fire or other calamity so as to prevent the use of the Alamodome for the purposes of the Event and during the Use Days specified in this Agreement, or (b) if the performance of this Agreement is prevented, in part or in full, during the Use Days specified in this Agreement, due to an act of God, civil strike (except for strikes involving CITY's own employees), terrorism, lockout, material or labor shortage, binding order by any governmental authority affecting CITY, the Alamodome or travel by LICENSEE, the requisition of the Alamodome a federal, state, or local governmental unit or agency, civil riot, flood, curtailment or delay in transportation facilities, or (c) any other cause beyond the control of the Parties, any one (a-c) of which make it illegal or impossible to provide the Alamodome or hold the Event, then this Agreement shall terminate. In such an event, neither party shall be liable or responsible to the other party for any damages caused by such termination and LICENSEE waives any claim against CITY for damages by reason of such termination, except that LICENSEE shall be liable for all expenses incurred by CITY prior to termination. After such expenses are covered, the remainder of the Security Deposit, if any, shall be refunded to LICENSEE. Qualifying events of force majeure are evaluated for the period covering the Use Days set forth in this Agreement.

**15.4 Books, Records, and Inspections**. LICENSEE shall keep accurate books and accounts of the matters upon the basis of which payments specified in Paragraph 4 are to be computed and ascertained. Such books and records shall be open and available for inspection by CITY upon the official request of the General Manager of the Alamodome/Convention & Sports Facilities, with 72 hours prior notice, during regular working hours between Monday and Friday and any time during the Term of the Agreement. CITY agrees to use its best efforts to keep the information acquired from the examination of such books and records confidential and that it

will not disclose any of such information directly or indirectly or use such information for any purpose during the Term of the Agreement or any time thereafter except with respect to the disclosure of information concerning the amount of the use payments made to CITY pursuant to Paragraph 4.1, and except with respect to the disclosure of information which is required by the laws of the State of Texas, pursuant to the Texas Public Information Act, Texas Government Code Chapter 552. CITY shall comply at all times with the Texas Public Information Act.

15.5 Notices. Any notice or communication hereunder shall be in writing, and may be given by registered or certified mail. If given by registered or certified mail, the notice or communication shall be deemed to have been given and received when deposited in the United States Mail, properly addressed, with postage prepaid. If given otherwise than by registered or certified mail, it shall be deemed to have been given when delivered to and received by the party to whom it is addressed. Such notices or communications shall be given to the parties hereto at their following addresses:

If to the City:

Steve Zito, CVE  
Alamodome General Manager  
Convention & Sports Facilities  
100 Montana Street  
San Antonio, TX 78203  
(210) 207-3602

If to the Licensee:

Steve Rosenauer  
Executive Director  
Fiesta San Antonio Commission, Inc.  
2611 Broadway  
San Antonio, TX 78215  
(210) 227-5191 ext. 104  
[fiesta@fiesta-sa.org](mailto:fiesta@fiesta-sa.org)

With a copy to:

City Clerk  
City of San Antonio  
P.O. Box 839966  
San Antonio, TX 78283-3966

With a copy to:

Either party hereto may, at any time, by giving ten (10) days written notice to the other party hereto, designate any other address in substitution of the foregoing address to which such notice or communication shall be given.

15.6 Nondiscrimination. LICENSEE agrees to comply with all applicable Federal, State, and Local laws regarding nondiscrimination. As a party to this Agreement, LICENSEE understands and agrees to comply with the *Non-Discrimination Policy* of the City of San Antonio contained in Chapter 2, Article X of the City Code and further shall not discriminate on the basis of race, color, religion, national origin, sex, sexual orientation, gender identity, veteran status, age or disability, unless exempted by state or federal law.

15.7 Taxes. LICENSEE agrees to pay on a current basis all taxes or assessments, if applicable, levied on its activities and property; PROVIDED, however, that nothing contained herein shall modify the right of LICENSEE to contest any such tax, and LICENSEE shall not be deemed to be in default as long as it shall, in good faith, be contesting the validity or amount of any such taxes.

15.8 Non-Waivers. Neither the waiver by either party to this Agreement nor any breach of any agreement, covenant, condition, or provision thereof, nor the failure of either party to seek redress for violation of, or to insist upon strict performance of, any such agreement, covenant, condition, or provision, shall be considered to be a waiver of any such agreement, covenant, condition, or provision or of any subsequent breach thereof. No provision of this Agreement may be waived except by written agreement of the party to be charged.

15.9 Texas Law Controlling; Where Actions Brought. This Agreement shall be deemed to be, and is, made in and shall be in accordance with the laws of the State of Texas, which will be controlling in any dispute that arises hereunder. Actions pertaining to this Agreement shall be brought in Bexar County, City of San Antonio, Texas.

15.10 Paragraph Headings. The paragraph headings contained herein are only for convenience and reference and are not intended to be a part of this Agreement or in any manner to define, limit, or describe the scope or intent of this Agreement or the particular paragraphs to which they refer.

15.11 Entire Agreement. This Agreement and any attachments hereto constitute the entire Agreement between CITY and LICENSEE and may not be altered, amended, or modified except by an instrument in writing signed by the parties hereto with the same formality as this Agreement.

15.12 No Partnership. Nothing contained herein shall make, or be deemed to make, CITY and LICENSEE a partner of one another, and this Agreement shall not be construed as creating a partnership or joint venture, but only the relationship of licensor and licensee.

15.13 Singular and Plural. Wherever the context shall so require, the singular shall include the plural and plural shall include the singular.

15.14 Alamodome Tours. CITY shall not conduct or permit tours of the Alamodome on the day of the Event without prior consent of LICENSEE, except that where CITY has contracted with a person or persons for a non-public group tour prior to the execution of this Agreement. Said tour will be permitted in those areas of the Alamodome mutually agreeable to CITY and LICENSEE.

15.15 Permits and Licenses. It is understood and agreed that LICENSEE is responsible for obtaining all necessary permits and licenses.

15.16 Compliance with Applicable Law. LICENSEE shall be responsible for compliance with all applicable laws, ordinances, statutes, codes, policies, rules and regulations, including without limitation those relating to providing a safe working environment to employees and, specifically, the requirements of the Texas Industrial Safety and Health Act (TISHA), and the Americans with Disabilities Act (ADA). CITY shall make available, at no cost to LICENSEE, a Telflex AAR-1 Assistive Listening System, consisting of a transmitter and wireless receivers, for use during the Event.

LICENSEE in compliance with the provisions of the ADA shall:

- (a) Utilize the provided system or supply one of its own;
- (b) Advertise the availability of the assistive listening devices through the use of on site signs, brochures and/or distributed promotional materials; and
- (c) Maintain an audio feed to the system.

CITY is responsible for the proper storage, collection and prompt return of the loaned devices at the end of the Event.

LICENSEE shall not do, nor suffer to be done, anything at the Alamodome, during the Use Days of this Agreement, in violation of the laws of the United States or the State of Texas. Further, LICENSEE shall obey all rules and regulations of CITY for the government and management of the San Antonio Convention Facilities, together with all rules and requirements of the police and fire departments of CITY. LICENSEE agrees that every employee, contractor, agent or attendee of LICENSEE shall abide by, conform to and comply with all and any such rules, laws, and ordinances. If the attention of said LICENSEE is called to such violations, LICENSEE will immediately desist from and correct such violations or CITY may immediately terminate this Agreement and will not be liable to LICENSEE for such termination.

CITY shall notify LICENSEE of the status of applicable COVID-19 restrictions and all applicable related CITY rules, regulations and policies, including the Alamodome COVID-19 Safety Plan, two weeks prior to the

Event and such rules, policies and regulations shall be incorporated into this Agreement by reference, as if set forth in full.

In the event CITY, in its sole discretion, is required to sanitize the Alamodome due to the failure of any of LICENSEE's employees, contractors, agents or attendees to comply with all rules, regulations and policies pertaining to the COVID-19 pandemic applicable to the Alamodome at the time of the Event, including the Alamodome COVID-19 Safety Plan, such deposit shall be used to offset the costs associated with any additional cleaning needs or enforcement measures, including but not limited to the dispatch of the San Antonio Code Enforcement Division. Any Health and Safety Deposit funds remaining after all such necessary sanitation shall be refunded to LICENSEE. The Health and Safety Deposit shall only be required when the Alamodome is covered by a state or local health order or declaration.

LICENSEE and every employee, contractor, agent or attendee of LICENSEE shall obey all rules, regulations and policies pertaining to the COVID-19 pandemic applicable to the Alamodome at the time of the Event, including the Alamodome COVID-19 Safety Plan. CITY will use reasonable business efforts to educate any such individuals who do not comply with those rules, regulations and policies. Should such individuals persist in violating CITY's COVID-19 rules, regulations and policies, those individuals may be removed from the Alamodome at the sole discretion of CITY. In the event of widespread, persistent non-compliance with CITY's COVID-19 rules, regulations and policies, this Agreement may be terminated by CITY, in its sole discretion, and LICENSEE shall forfeit all amounts paid, including deposits, and CITY shall not be liable to LICENSEE for such termination.

15.17 LICENSEE shall deliver to CITY on or before the execution of this Agreement and shall keep in force throughout the term hereof either an Irrevocable Standby Letter of Credit or Surety Bond in favor of CITY. The foregoing shall be in form and content satisfactory to CITY, shall be conditioned on satisfactory performance of the provisions of Subsection 4.1(e) during the term hereof and shall stand as security for payment by LICENSEE of all valid claims by CITY with regard to the provisions of Subsection 4.1(e). If a bond shall be delivered, it shall be issued by a sound indemnity company authorized to do business in Texas. The amount of the irrevocable letter of credit or surety bond to be delivered by LICENSEE to CITY on or before the date of the Agreement shall be **fifty-thousand dollars (\$50,000)**.

LICENSEE shall maintain the required performance guarantee continuously throughout the Agreement term. Failure to do so shall be deemed a default and shall be grounds for immediate termination of this Agreement.

15.18 LICENSEE shall require that all of its subcontractors and vendors comply fully with the terms and conditions of this Agreement.

15.19 Registered Agent and Service of Process on LICENSEE. LICENSEE shall have and continuously maintain in the State of Texas a registered agent pursuant to the applicable provisions of Texas Law and notice herein. The registered agent shall be an agent of LICENSEE upon whom any process, notice, or demand required or permitted by law to be served upon LICENSEE may be served. LICENSEE shall give CITY written notice of the name, street, address, and telephone number of its registered agent prior to signing this Agreement unless otherwise agreed to by CITY.

15.19 Severability. If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the Charter of the City of San Antonio, the City Code of San Antonio, or ordinances of the City, then and in that event it is the intention of the parties hereto that such invalidity, illegality or unenforceability shall not affect any other clause or provision hereof and that the remainder of this Agreement shall be construed as if such invalid, illegal or unenforceable clause or provision was never contained herein; it is also the intention of the parties hereto that in lieu of each clause or provision of this Agreement that is invalid, illegal or unenforceable, there be added as a part of this Agreement a clause or provision as similar in terms to such invalid, illegal or unenforceable clause or provision as may be possible, legal, valid and enforceable.



15.21 Assignments. LICENSEE shall not assign or transfer LICENSEE'S interest in this Agreement without the written consent of the General Manager of the Alamodome/Convention & Sports Facilities. Any attempt to transfer, pledge or other assignment shall be void ab initio and shall confer no rights upon any third person or party.

15.22 Attachments. Each of the Attachments affixed to this Agreement is an essential part of the Agreement and governs the rights and duties of the parties. Each Attachment shall be incorporated herein for all purposes.

15.23 Boldface Terms. All terms and words in this License Agreement that are in "boldface" script control over and in lieu of all other inconsistent terms and words in this Agreement.

15.24 Disputes. The General Manager of the Alamodome/Convention & Sports Facilities shall be the arbiter in any dispute, which may arise under these articles.

15.25 Prior Signed Agreements. Any signed agreements for the 2020-2024 Fiesta Carnival will be null and void.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

CITY OF SAN ANTONIO

PROMOTER

By: \_\_\_\_\_  
Steve Zito, CVE  
Alamodome General Manager  
Convention & Sports Facilities

By: \_\_\_\_\_  
Steve Rosenauer  
Executive Director  
Fiesta San Antonio Commission, Inc.

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

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

Attest: \_\_\_\_\_

Attest: \_\_\_\_\_