

CITY OF JEANNETTE

AMPHITHEATER LICENSE AND USE AGREEMENT

THIS AMPHITHEATER LICENSE AND USE AGREEMENT, made as of this _____ day of _____, 20_____, by and between:

CITY OF JEANNETTE, Westmoreland County, Pennsylvania, a third-class city and political subdivision of the Commonwealth of Pennsylvania,

AND

_____, with an address at _____ (“Licensee”).

WHEREAS, the City of Jeannette is the owner of that certain Amphitheater located at 501 Clay Avenue Jeannette PA 15644 (hereinafter referred to as the “Amphitheater”), owned by the City of Jeannette;

WHEREAS, Licensee desires to license to use the Amphitheater for a performance event; and

WHEREAS, this Agreement was approved by the City Council of the City of Jeannette as to its form on _____, as a standard license agreement.

WITNESSETH, that the parties hereto, intending to be legally bound hereby, and for and in consideration of the performance of the covenants, conditions, and agreements hereinafter expressed agree as follows:

1. Licensee agrees and acknowledges that it has examined the Amphitheater and knows the condition of the Amphitheater. Licensee further agrees that the Amphitheater is in good order and repair and acknowledges that no representations as to the condition and repair thereof, not herein expressed, have been made by the City of Jeannette, or its officers, agents, or employees, prior to or at the execution of this License Agreement. The City of Jeannette licenses all equipment of the City presently located at the Amphitheater to Licensee only for Licensee’s specific and limited use of the Amphitheater pursuant to this Agreement. No such equipment belonging to the City of Jeannette shall be removed from the Amphitheater by Licensee.

2. The term of this Agreement for the Amphitheater shall be for _____, starting on _____, and ending on _____, which period shall include set-up and take-down time. The use fee for any events requesting the Amphitheater are as follows:

- a. Use fee of \$25.00 an hour for certified non-profit organizations based in or operating within the City of Jeannette who will not engage in any commercial activities (including, without limitation, the selling of event tickets or concessions or merchandise at the Amphitheater lot) relating to its use of the Amphitheater and/or the grass lot in front of the Amphitheater.

- b. Use fee of \$75.00 an hour for all other persons or organizations.
- c. \$30.00 charge for use of the electricity (in addition to any use fee) subject to additional assessment for excessive use of electricity).
- d. \$100.00 charge for barricades to be used to obtain any street closures (in addition to any use fee)

The use fee must be paid to the Office of the City Treasurer of the City of Jeannette at least fifteen (15) days prior to the event. This use fee shall include the reasonable cost of utilities. Licensee shall pay a security deposit of one hundred and 00/100 Dollars (\$100.00) to the City, to be held by the City and used to cover the costs of any repairs or damages associated with or resulting from Licensee's use of the Amphitheater, which security deposit (less any deductions as provided herein) shall be returned to Licensee within thirty (30) days of the expiration or termination of this Agreement.

3. Licensee shall be responsible for the maintenance, repair, upkeep, and operation of the Amphitheater during Licensee's use of the Amphitheater, with all maintenance, repair, upkeep, and operating costs being the responsibility of Licensee. Under no circumstance shall the City of Jeannette become obligated, liable, or responsible for any such maintenance, repair, upkeep, and operating costs for or associated with the Amphitheater during Licensee's use of the Amphitheater, without the specific, written consent of the City of Jeannette. Furthermore, the City of Jeannette shall not be liable for loss, injury, or damage to any person or property unless such loss, injury, or damage is directly due to the City of Jeannette's gross negligence. Licensee shall repay to the City of Jeannette any money spent by the City of Jeannette resulting from or arising out of Licensee's action or neglect. Licensee must pay and be responsible for all actions or neglect of Licensee, and their agents, employees, invitees and Licensees.

4. The City of Jeannette hereby grants to Licensee an exclusive license for the Amphitheater for _____. Licensee shall not use the Amphitheater for any other purpose without the express written consent of the City of Jeannette, including, without limitation, weddings, reunions, private parties, religious meetings, political campaign events. Under no circumstance shall Licensee keep anything on the Amphitheater which is explosive or hazardous, or that might unreasonably increase the danger of fire or any other safety hazard. Licensee shall not use any grills, fryers, or open flames within fifteen (15) feet of any structure at the Amphitheater. Licensee shall not sell or possess, or permit to be sold or possessed by its representatives, any alcoholic beverages in the Amphitheater without the specific, written consent of the City of Jeannette and in accordance with all applicable laws, regulations, ordinances, rules, and orders.

5. The City of Jeannette shall have the right at any time, but not the obligation, to enter upon and inspect the Amphitheater to assure itself that there has been compliance with the terms of this Agreement, but the exercise by the City of such right, or the failure to exercise the same, shall not relieve Licensee of any obligation imposed upon Licensee under the terms of this Agreement.

6. Licensee shall arrange for an adequate number of dumpsters and trash receptacles to be available and placed in the Amphitheater during the event. Such dumpsters and trash receptacles shall be obtained from the City of Jeannette or a provider licensed and authorized by

the City to provide such dumpsters and trash receptacles. Licensee shall locate any such dumpsters in inconspicuous places in the Amphitheater and shall arrange for the continuous, regular, and timely collection, removal, and disposal of all trash and other garbage associated with the event. All such dumpsters and trash receptacles shall be removed from the Amphitheater following the event. Licensee shall arrange for an adequate number of portable restroom facilities to be available and placed in the Amphitheater during the event. Licensee shall locate any such portable restroom facilities in inconspicuous places in the Amphitheater and shall arrange for the continuous, regular, and timely cleaning of such facilities. Licensee shall arrange for the provision of all electricity and other power needed for the event through generators or gas-powered equipment and shall not use or rely upon any public electrical distribution system. Licensee shall arrange for the provision of all water for the event and shall not use or rely upon any public water distribution system.

7. Upon termination of this Agreement by expiration or otherwise and if requested by the City of Jeannette, Licensee shall, at its own expense, remove or cause to be removed any or all materials, signs, signboards, debris, or other articles owned or used by Licensee at the Amphitheater. Upon termination of this Agreement, Licensee agrees to restore the Amphitheater to a condition satisfactory to the City of Jeannette. Upon termination of this Agreement, any property that is left on the Amphitheater by Licensee shall become the property of the City of Jeannette and may be disposed of or kept by the City of Jeannette.

8. Licensee shall not assign, sublet, or license the Amphitheater to any other party without the specific, written consent of the City of Jeannette. Licensee shall not make any alterations, additions, or improvements (including but not limited to the moving of equipment or addition of fixtures) to the Amphitheater without the specific, written consent of the City of Jeannette. Any and all alterations, additions or improvements (including but not limited to equipment and fixtures) to the Amphitheater shall become the property of the City of Jeannette.

9. Licensee shall protect, indemnify and hold harmless the City of Jeannette from and against any and all liabilities, damages, claims, demands, judgments, costs, expenses, suits, actions or proceedings (including, without limitation, reasonable fees and disbursements of counsel) in respect of claims by third parties, including, without limitation, the guests and participants of Licensee, relating to any negligence or willful misconduct by the City of Jeannette or Licensee, or its officers, representatives, agents, contractors, members, and invitees, in the use, enjoyment, repair, maintenance, or improvement of the Amphitheater and the condition of the Amphitheater.

10. Licensee may carry insurance on any property owned by Licensee. Licensee shall carry comprehensive general liability insurance on its activities, its use of the Amphitheater, and its custodial, maintenance, repair, and upkeep responsibilities for the Amphitheater. Such insurance shall have coverage of at least One Million and 00/100 Dollars (\$1,000,000.00) per incident and Two Million and 00/100 Dollars (\$2,000,000.00) aggregate. Licensee shall furnish the City of Jeannette with certificates evidencing the insurance required in this section, and the City of Jeannette shall have the right to review copies of the general liability policy maintained by Licensee. Such insurance policy maintained by Licensee shall be endorsed to waive the carrier's rights of recovery under subrogation against the City of Jeannette and its officials, employees, agents, or contractors.

11. Licensee shall obtain all registrations, licenses, certifications, and approvals necessary for the use of the Amphitheater. Licensee shall use the Amphitheater in accordance with all applicable laws and all rules, regulations, policies, and procedures of the City of Jeannette, as may be enacted or amended from time to time.

12. This Agreement shall be binding upon the City of Jeannette and Licensee and their respective agents, representatives, successors, and assigns.

13. Failure to comply with any and all items in this Agreement may be considered as reason and cause of the City of Jeannette to terminate immediately this Agreement.

14. The City of Jeannette's failure to enforce any term or condition in this Agreement shall not prevent the City of Jeannette from enforcing any term or condition as to any later violation.

15. The terms, conditions, promises, representations, and agreement contained herein constitute the entire agreement between the City of Jeannette and Licensee, and no other terms shall be construed to be a part of this Agreement unless this Agreement shall be expressly amended in writing by both parties.

16. The City of Jeannette and Licensee agree to the terms of this Agreement, and both parties agree and acknowledge that their proper corporate or public officers shall sign and seal this Agreement.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals, the day, month, and year first above written.

CITY OF JEANNETTE

LICENSEE

BY: _____
Mayor, City of Jeannette

ATTEST:

City Clerk