

**FACILITY USE AGREEMENT**

THIS AGREEMENT (this "Agreement") by and between the INTERNATIONAL ASSOCIATION FOR THE VISUAL ARTS, ("Licensor") and \_\_\_\_\_ ("Licensee").

WITNESSETH:

1. Upon the terms and conditions of this Agreement, Licensor has granted and Licensee has accepted, a non-assignable right for such Licensee to use and occupy the portion of the Art Museum located at 1211 Montana, El Paso, Texas, as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ (the "Premises")

With the understanding that Licensee shall have the right of ingress and egress through the outdoor facilities, halls and corridors of such building, but acquires hereby no other right in any other part of the building than the part specified.

2. Licensee represents that the Premises will be used solely for the purpose of:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

And for no other purpose whatsoever without the prior written consent of the Licensor.

3. Licensee is entitled to use and occupy the Premises:

From: \_\_\_\_\_ .M., \_\_\_\_\_, 2008

To: \_\_\_\_\_ .M., \_\_\_\_\_, 2008

Together with the further right of access to, and limited use thereof for \_\_\_\_\_ hour(s) prior to the hour first stated and \_\_\_\_\_ hour(s) after the hour last stated, for the purpose of putting in equipment, preparing the Premises for use, and packing up and removing equipment afterwards.

4. Upon execution hereof, Licensee shall pay the sum of \$ \_\_\_\_\_ as consideration for the right of use of the Premises.
5. Upon execution hereof, Licensee shall pay to the Licensor a security deposit in the amount of \$ \_\_\_\_\_. Upon the occurrence of any event of default, Licensor may, from time to time, without prejudice to any other remedy, use the security deposit to the extent necessary to make good any sum due from Licensee as prescribed herein, and any other damage, injury, expense, or liability caused to Licensor by such default. The security deposit shall not be considered an advance payment of fees or a measure of Licensor's damages in case of default by Licensee.
6. Licensee accepts the Premises, grounds and building in their present condition and state of repair, and agrees that upon the end of the term for which the Premises, grounds, and building have been licensed, the Premises will be vacated and surrendered to the Licensor in the same condition it is now.
7. Licensee shall not admit a larger number of persons that can safely and freely move about in the Premises and the decision of the Licensor in this respect shall be final. Neither the halls nor stairways of the building, nor the sidewalks, entrances or lobby thereof shall be obstructed by Licensee nor used for purposes other than ingress or egress without the prior written consent of the Licensor.
8. Licensee shall not bring or permit anyone to bring into the building or the grounds, or keep therein, anything that will increase the fire hazard or the rate of insurance or invalidate any insurance policy on the building or the property stored therein. Licensee shall not bring or permit any person to bring into the building any animals, or any property of any kind, without the consent of the Licensor. Licensor reserves the right at any time to require Licensee to remove from the building any animals, furniture, fixtures, wiring, exhibits, or other things placed therein or permitted to be placed therein by Licensee.
9. Licensor and its designated representatives shall have the right at any time to enter any portion of the Premises for any purpose whatsoever. The building, including the Premises expressly covered by this Agreement, shall at all times be under the charge and control of the Licensor. The keys to the Premises shall remain in the possession of the Licensor, and during the period covered by this Agreement, the entrances and exits of the Premises shall be locked or unlocked under the direction of Licensor. Licensee at his expense shall furnish a sufficient number of uniformed police officers or security guards from a service approved by the Licensor to provide adequate protection to the public during Licensee's occupancy of the Premises. The required number of officers or guards shall be determined by the Licensor.
10. By execution of this Agreement, Licensee specifically grants the Licensor and its authorized representatives the authority to eject any objectionable person or persons (including but not limited to employees of the Licensee) from the Premises, grounds, and the building.

11. Licensee shall not cause or permit any nails or other things to be driven into any portion of the building, nor any signs to be affixed either to the exterior or interior thereof, nor cause or permit to be done anything which will damage or change the finish or appearance of the building or any of the floors, fixtures, and furnishings thereof by any act of Licensee or any of Licensee's employees or agents or anyone visiting the building upon the invitation of Licensee including the patrons of the attraction or function for which Licensee is hereby using the Premises without the prior written approval of the Licensor. It is expressly agreed that the Licensor shall determine whether any such damage has been done, the amount thereof and the reasonable cost of repairing the same, and whether it is one for which, under the terms of this agreement, Licensee is to be held responsible.
12. Licensor reserves the right to remove from the building all effects remaining therein after the terminations of this Agreement and to store the same wherever it sees fit in its name or, at its option, in the name of Licensee, but at the cost, expense and risk of Licensee, and Licensor shall not be liable in any way to Licensee on account of so removing and storing such effects. Licensor shall be entitled to recover any and all expenses incurred in connection with moving, storing or selling the property which remains on the Premises, ground or building beyond the term expressly stated herein.
13. Licensor agrees to furnish the Premises to Licensee lighted, heated or cooled as necessary, and cleaned. Licensor will make no charge on account of gas and electric power ordinarily used in the heating and lighting of the building or the operation of air-conditioning equipment, but it is expressly understood the Licensor will furnish heating or air-conditioning only during performances and meetings and that the control of temperature shall at all times be under the supervision of the Licensor. Licensor assumes no responsibility for failure of heating or air-conditioning system to operate properly and licensee hereby released Licensor from all damage or claim of every sort which may result from such failure.
14. In case the Premises, or the building in which the Premises are located, are destroyed or damaged by fire or any other cause, or if any other casualty or unforeseen occurrence shall render the fulfillment of this license by Licensor impossible or impracticable, this Agreement shall be terminated and both parties shall be relieved of all their obligations arising from this Agreement. Licensee hereby waives and releases any claim for damages or compensation on account of such termination. Any breach or default on the part of Licensee shall entitle Licensor to terminate this entire agreement without notice or liability, and to hold as Licensor's liquidated damages and not as a penalty such amount as Licensee has theretofore paid under this agreement.
15. Any waiver, forbearance, or failure or delay by Licensor in exercising any right, power, or remedy shall not preclude the further exercise thereof, and every right, power or remedy of Licensor shall continue in full force and effect until such right, power, or remedy is waived in writing by Licensor.

16. Licensee agrees:

- a. To station a responsible representative, approved by the Licensor, on the Premises during their use, and to keep such representative on the Premises until such time as the use by Licensee has terminated.
  - b. To indemnify and hold Licensor and its officers, directors, trustees, agents, employees and other representatives (collectively, the “Indemnified Parties”) harmless against any and all claims, demands, damages, costs, and expenses, including investigation expenses and reasonable attorneys’ fees for the defense of such claims and demands (collectively, “Loss”), arising out of or attributed directly or indirectly, to the operation, conduct or management of Licensee’s business on the Premises, its use of the Premises, presentation of any copyrighted work or material, violation of proprietary rights, or from any breach on the part of Licensee of any terms of this Agreement, of any covenant or condition hereof or from the use or occupancy of the Premises or of the outdoor facilities, halls and corridors of the building by Licensee or Licensee’s employees, servants, agents, contractors, licensees, customers or invitees or from any act, omission or neglect of Licensee, Licensee’s agents, servants, employees, contractorsees, customers or invitees or from any other cause whatsoever. **THIS INDEMNIFY SHALL APPLY REGARDLESS OF WHETHER THE LOSS IN QUESTIONS ARISES IN PART FROM ANY NEGLIGENT ACT OR OMISSION OF AN INDEMNIFIED PARTY OR, FROM STRICT LIABILITY OF ANY SUCH INDEMNIFIED PARTY OR OTHERWISE.** In case of any action or proceeding brought against an Indemnified Party by reason of any such claim, Licensee, upon notice from Licensor, agrees to defend the action or proceeding by counsel acceptable to Licensor;
  - c. To purchase comprehensive general liability insurance and property/casualty insurance from an insurance company approved by Licensor naming the Licensor as an additional insured in the amount of \$ \_\_\_\_\_ general liability and \$ \_\_\_\_\_ property insurance covering the building and the Premises for the duration of this Agreement, and to deliver a certification of same to the Licensor prior to the occupancy of the Premises. The comprehensive general liability policy shall contain contractual liability insurance covering Licensor’s obligations under paragraph 16(b).
17. Should it be necessary for the Licensor to employ an attorney to enforce any provisions of this Agreement, the Licensee agrees to pay all reasonable costs, damages and expense, including attorneys’ fees incurred in connection with the enforcement efforts.
18. Licensee agrees not to conduct or permit any activity, performance, exhibition, or entertainment on the Premises which is illegal or obscene, and Licensee further agrees that should the Licensor deem any activity, performance, exhibition, or entertainment to be illegal or obscene, the Licensor shall have the right to demand of Licensee that it

immediately cease or cause the cessation of such activity, performance, exhibition, or entertainment.

19. Licensee agrees not to discriminate because of race, handicap, religion, or sex, against any persons relative to admission, services or privileges offered to or enjoyed by the general public.
20. Licensee will comply with all laws, ordinances and regulations adopted or established by federal, state or local governmental agencies or bodies; and by all facility rules and regulations as provided by Licensor, and Licensee will require that its agents or employees likewise so comply.
21. Parking spaces at the building site are limited and are available on a first come, first serve basis. Licensee understands that this Agreement does not guarantee parking at the Premises for Licensee, its employees or agents, nor to patrons or guests who may attend the function for which space is provided under this Agreement.
22. Licensee will assume all costs arising from the use of patented, trademarked, franchised or copyrighted music, materials, devices, processes or dramatic rights used in connection with the event. Licensee agrees to indemnify, defend and hold harmless Licensor from any claims or costs, including legal fees, which might arise from the questioning of the use of any such material described above.
23. All sums of money which become payable to the Licensor under the terms hereof, shall be payable by certified or cashier's check to the Licensor.
24. If Licensee cancels this Agreement with Licensor prior to use or occupancy, the total Security Deposit shall be forfeited as liquidated damages.
25. This Agreement embodies the entire understanding of the parties and no verbal agreement shall change its terms unless reduced to writing and signed by both parties hereto, or as otherwise provided herein.

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

Licensor:

**INTERNATIONAL ASSOCIATION FOR THE VISUAL ARTS**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Licensee:

\_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_