

**GROUND LEASE BETWEEN**

**WINNEBAGO COUNTY**

**AND**

**LIFE PROMOTIONS, INC.**

This Lease Agreement ("lease") is made this \_\_\_ day of \_\_\_\_\_, 2017 and shall be effective November 27, 2017 ("Effective Date"), by and between WINNEBAGO COUNTY, a State of Wisconsin Municipal Corporation, Oshkosh, Wisconsin 54901, hereinafter referred to as "LESSOR" and LIFE PROMOTIONS, INC., hereinafter referred to as "LESSEE".

**RECITALS**

**WHEREAS**, LESSEE is committed to providing a family oriented event recognized as the annual Lifest Christian Music Festival (Lifest) on property owned by the LESSOR and titled the Sunnyview Exposition Center (500 East County Road, Oshkosh, WI); and,

**WHEREAS**, during the nineteen (19) year period that Lifest has been held in Winnebago County the festival has experienced consistent growth such that it has now become the area's 2nd largest event in Winnebago County with 90,000 attendees and its operation generates an estimated \$5.3 million dollar economic impact on Winnebago County.

**WHEREAS**, in conjunction with the ongoing success and profound growth of Lifest, LESSEE has indicated its desire to direct resources towards the building of a permanent stage area (Stage Facility) that both the LESSEE and LESSOR consider to be crucial in ultimately solving a number of compounding problems associated with a shortage of available programming space at the Sunnyview Exposition Center; and,

**WHEREAS**, the building of a permanent Stage Facility will vastly improve the programming quality of Lifest and help magnify the appeal and ability of the event to draw from a wider market thus ensuring the long term sustainability of Lifest within Winnebago County; and,

**WHEREAS**, LESSEE desires to enter into a ten (10) year lease with the LESSOR that will serve in facilitating the construction, maintenance and operation of the Stage Facility within the Grandstand Complex (PREMISES) at the Sunnyview Exposition Center; and,

**WHEREAS**, LESSEE shall be the party entirely responsible for pursuing through its own resources, the financial means for complete funding of the Stage Facility; and,

**WHEREAS**, LESSOR shall make available a specified amount of property (Leased Area) within the PREMISES for the purpose of accommodating a Stage Facility that will not only benefit and add to the enjoyment of the citizens of Winnebago County but will also

address the present and future expansion needs of LESSEE and ensure the continuing growth and stability of Lifest for many years to come; and,

**WHEREAS**, at the conclusion of the ten (10) year lease agreement, LESSOR agrees to accept free title of the Stage Facility and the approximate seven hundred and fifty thousand dollars and no/100 (\$750,000.00) improvement associated with the structure including a fifty-six foot wide by one hundred twenty-two foot long (55' X 122') concrete stage with a steel gantry for supporting equipment such as backdrops, lighting and video screens.

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, LESSOR does hereby agree to and does lease unto the LESSEE and the LESSEE agrees to and hereby does lease from the LESSOR the Leased Area, and intending to be bound, LESSEE and LESSOR hereby agree as follows:

**1. RECITALS.**

The above Recitals are hereby incorporated by reference and form a part of this agreement.

**2. LEASED AREA.**

LESSOR does hereby lease to LESSEE the Leased Area as is hereby specified and further identified and detailed on Exhibit 1:

**PARCEL ID 9153000000 LEASED GRAND STAND STAGE AREA LEGAL DESCRIPTION:**

A leased area located within grantor's premises, being a part of the Northeast ¼ of the Southwest ¼ of Section 25, T19N, R16E, City of Oshkosh, Winnebago County, Wisconsin described as:

Commencing at Southwest Corner of Section 25, T19N, R16E,

Thence N89°15'49"E, along the south line of the Southwest 1/4 of said Section 25, 1797.01 feet;

Thence N00°44'11"W, 1893.90 feet to the POINT OF BEGINNING,

Thence N00°43'47"W, 76.25 feet;

Thence N89°16'13"E, 142.75 feet;

Thence S00°43'47"E, 76.25 feet;

Subject to easements of record.

**3. TERM.**

The term of the Lease shall be for a period of approximately ten (10) years commencing on November 27, 2017 and ending on July 14, 2027.

**4. OPTION TO RENEW.**

There shall be no option to renew available to the LESSEE.

**5. CONSTRUCTION AND SUBSEQUENT IMPROVEMENTS ACCESS.**

LESSEE shall have free “non-exclusive” use of the Sunnyview Exposition Center West Annex Road connected to WI State Hwy. 76 to serve as an access route to construct the Stage Facility and engage in all improvements associated therewith during the ten (10) year term of this lease with the availability for access beginning no earlier than November 27, 2017. For the initial Stage Facility construction period running up to and including July 1, 2018, access shall be limited to those dates and times as set forth in a separate document provided to the LESSEE by the Parks & Expo Director. Said document shall be submitted to the LESSEE no later than November 27, 2017. For all other years during the term of this lease, LESSEE shall be obligated to coordinate with LESSOR any subsequent dates and times for which it will be necessary to access the Stage Facility in order to engage in substantive improvements or repairs to the structure.

**6. RENT.**

a. LESSEE shall be obligated to meet LESSOR’S needs in renting the Stage Facility to LESSOR at such times when LESSOR’S other Expo clients require use of said Stage Facility. The term of such rental periods shall correspond to the official contracted lease terms of individual Expo clients requiring Stage Facility usage. For the duration of the Lease, such rental rates shall be considered negotiable between LESSEE, LESSOR and Expo client. The Stage Facility rental charge shall not exceed a maximum of twenty thousand dollars and no/100 (\$20,000.00) for each Expo client event charged to the LESSOR.

b. Stage Facility rental charges to the LESSOR shall be divided fifty percent (50%) payable to the LESSEE with the remaining fifty percent (50%) retained by the LESSOR.

c. Payment of Stage Facility Rent. It is agreed that the LESSEE shall invoice the LESSOR within one month following the final program event date of each respective Expo event for which a Stage Facility rental charge applies.

d. It is agreed that the rental prices as determined in Paragraph 6. a., shall remain fixed for the duration of this lease in spite of any post-construction alterations or improvements that may be applied to the Stage Facility by the LESSEE at a later date.

e. It is agreed that for the duration of this lease no Stage Facility rental fees shall be applied to the LESSEE for use of the Stage Facility during the annual Lifest Christian Music Festival, however at such times when LESSEE may elect to program an additional event(s) at the Expo Center, apart from Lifest, a rental fee of \$2,500.00 shall be assessed for each said use and all other Expo rental charges shall be applied in accordance with the Sunnyview Exposition Center Rental Fees Schedule.

f. It is agreed that for the duration of this lease, no Stage Facility rental charges shall be applied to the Winnebago County Fair for use of the structure during the Fair’s annual summer event.

g. It is agreed by LESSEE and LESSOR that for good and valuable consideration of a lease payment LESSEE shall pay LESSOR an amount equivalent to one dollar (\$1.00) per year over the ten (10) year term of this lease.

## **7. AUTHORIZED USES.**

a. Purpose. LESSEE shall own the Stage Facility for the ten (10) year term of this lease for the accepted purpose of operating and maintaining the venue in a manner conducive towards its being utilized to support the programming of substantial concerts, plays, assemblages, and other types of entertainment events.

b. Operation. LESSEE shall operate the Stage Facility in a safe manner consistent with normal operating practices. Any other use shall require the written approval of the LESSOR. Such approval shall not be unreasonably withheld.

c. Cost of Improvements. The cost of construction of all improvements to the Stage Facility including perimeter fencing shall be borne by the LESSEE. LESSEE agrees to obtain all associated permits and pay all necessary permit fees.

## **8. OBLIGATIONS OF LESSOR.**

a. Operation and Maintenance of Premises. LESSOR agrees that it shall, during the term of this lease, within its financial ability, operate, maintain and keep in good repair all public and common facilities and services established within the PREMISES including the grandstands, restrooms, concession building, fencing and gates, road surfaces, audience/performance area, Barn E, water and electrical services, lighting, security lighting and fixtures, turf areas, and public address systems.

b. Operation and Maintenance of Sunnyview Exposition Center. LESSOR agrees that it shall, during the term of this lease, within its financial ability, operate, maintain and keep in good repair all public and common facilities and services at the Sunnyview Exposition Center site including the developed land areas, roadways, lighting, security lighting, and security fencing.

c. Utility Easements. LESSOR agrees that it shall grant easements necessary to supply utilities to the Stage Facility.

d. Expo Client Insurance. LESSOR shall require each Expo client renting the Stage Facility to provide such insurance coverage as indicated in Exhibit 2 and to include LESSEE as a named co-insured.

e. Utility Charges. LESSOR shall assume payment of all utility fee charges associated with maintaining electrical services to the Stage Facility for all show events, including Lifest, as well as all charges associated with safety, security, and operational support functions. In addition, LESSOR shall assume payment of City of Oshkosh Storm Water Utility Fees as applied to the stage platform and the ten (10) foot wide strip of impervious surface surrounding the stage.

f. Security. Separate from such periods when LESSEE occupies the Premises during Lifest and upon occasions when LESSEE has secured rights to the PREMISES through an Expo rental agreement apart from Lifest, LESSOR shall assume all responsibility and for providing video security coverage for the Stage Facility. Said coverage shall primarily involve installation, maintenance and monitoring of video cameras within the PREMISES that may assist the Oshkosh Police Department in law enforcement related matters dealing with the PREMISES.

g. Audience/Performance Area Improvements within PREMISES. At its own expense, LESSOR shall be obligated to construct, through means of excavation and tiling, a relatively flat hard surface audience/performance area directly to the south of the Stage Facility that shall be approximately three hundred and fifty feet by six hundred and fifty feet (350' X 650') in size and capable of safely and efficiently supporting a maximum standing audience of twenty-five thousand attendees. Said audience/performance area shall include provisions for ingress and egress through existing gates as well as provisions for ADA accessibility. Allowing for such weather conditions that may hinder or obstruct LESSOR from constructing the audience/performance area from time-to-time, LESSOR shall complete said improvements to the PREMISES no later than June 1, 2018.

h. Road Improvements within PREMISES. In conjunction with construction of the aforementioned audience/performance area, LESSOR shall provide road improvements within the PREMISES to the extent that a twenty-two foot wide by three hundred fifty foot long (22' X 350') gravel road will be installed. Said road will be laid-out on an east to west tract running from the PREMISES' west vehicle entrance gate to the west side of the Leased Area and will be constructed such that it will be capable of supporting semi-truck vehicles.

i. Winter Access to Leased Area. For the duration of this lease, between the months of November and April, LESSOR shall be responsible for regular maintenance and plowing of the Sunnyview Exposition Center West Annex Road connected to WI State Hwy. 76, as well as the north/south access road going into the PREMISES and leading up to the Stage Facility, in order to accommodate LESSEE'S off-season vehicle access needs.

j. Damage or Destruction of Property. With the exception of incidences involving LESSOR'S negligence or intentional acts of the LESSOR, its agents, employees, contractors and/or subcontractors, LESSOR has no obligation to participate in the rebuilding or restoration of any part of the Leased Area in the event of any ensuing damage or destruction occurring within the Leased Area.

## **9. OBLIGATIONS OF LESSEE.**

a. Acceptance of PREMISES. LESSEE, by execution of this lease represents that it has inspected the PREMISES and the Leased Area to which this lease pertains, and that it accepts the condition of same as they now exist, and fully assumes all risks incident to the use thereof, including, but not limited to any, any hidden, latent, or other dangerous conditions within the PREMISES or the Leased Area.

b. Creation and Installation of Stage Facility. Construction and installation of the Stage Facility shall be completed in a timely, neat and appropriate manner in accordance with sound engineering practices, applicable rules, regulations, ordinances and laws and in conformity with plans approved by the Winnebago County Parks & Recreation Committee. All work shall be performed by fully qualified contractors carrying all insurance required by this lease. For any contractor employed by LESSEE to work in the Leased Area, a certificate of all insurance coverage required by the Winnebago County Purchasing Department shall be provided to LESSOR by LESSEE prior to the commencement of any work in the Leased Area by the contractor.

c. Access for Construction and Subsequent Visits. LESSEE shall have free “non-exclusive” use of the Sunnyview Exposition Center West Annex Road connected to WI State Hwy. 76 to serve as an access route to construct the Stage Facility and engage in all improvements associated therewith during the ten (10) year term of this lease with the availability for access beginning no earlier than November 27, 2017. For the initial Stage Facility construction period running up to and including July 1, 2018, access shall be limited to those dates and times as set forth in a separate document provided to the LESSEE by the Parks & Expo Director. Said document shall be submitted to the LESSEE no later than November 27, 2017. On the first business day of January of each remaining year during the term of this lease, LESSOR shall provide LESSEE with a Grandstand Program Calendar which shall include those dates on which LESSEE will be restricted from accessing both the PREMISES and the Leased Area contained therein. Further, for the duration of this lease LESSEE shall be obligated to notify and, if necessary, coordinate with LESSOR any subsequent dates and times for which it will be necessary to access the PREMISES in order to engage in substantive improvements or repairs to the Leased Area. At any time during any given calendar year LESSEE reserves the right to be able to remove or add restricted dates applied to the annual Grandstand Program Calendar in order to accommodate unexpected changes in the Sunnyview Exposition Center event and maintenance schedule.

d. Damages during Construction. Any damage done to the PREMISES during installation or operations due to LESSEE’s contractors, shall be immediately repaired by LESSEE at LESSEE’s expense and returned as much as possible to prior conditions to the LESSOR’S satisfaction. LESSEE shall not permit any claim or lien to be placed against any part of the Leased Area that arises out of work, labor, material or supplies provided or supplied to LESSEE, its contractors or subcontractors, for the installation, construction, operation, maintenance or use of the Leased Area.

e. Determination and Use of Water and Electric Utility needs during Construction. A minimum of thirty (30) days prior to commencement of construction activities, LESSEE shall provide LESSOR with all details necessary to describe the purpose, methods and approximate anticipated volume of such LESSOR owned water sources as may need to be made available to the LESSEE, its contractors and subcontractors to facilitate construction of the Stage Facility. Further, under no circumstances will LESSEE be provided with water access originating from the PREMISES following the seasonal shutdown of the PREMISES’ water service systems estimated to be on or about October 20, 2017. Similarly, to the best of its ability, for construction related purposes LESSEE shall attempt to detail such electrical service needs and electrical usage originating from within the PREMISES, as may be required by its contractors and subcontractors during the Stage Facility construction process. Given the

certainty that the LESSEE will require some degree of draw from one or both of the aforementioned utility services, all rights to access, as well as the manner in which such access will be allowed, shall require that prior permission be granted from LESSOR in writing and the conditions of such permission shall be left to the LESSOR's discretion. LESSOR shall not be allowed to issue unreasonable denial of LESSEE's request(s) for utility access.

f. Alterations and Additions to Leased Area. LESSEE shall have the right, during the term of this lease, to make alterations to existing improvements, attach fixtures, and erect additional structures on the stage platform provided however that no such alterations, etc. shall be commenced prior to LESSEE's obtaining LESSOR's written approval.

g. As Built Plans. LESSEE, at its expense and within thirty (30) days after completion of the Stage Facility, shall provide to the LESSOR "as built" plans and engineering drawings of the construction and equipment installed or constructed in the Leased Area. The drawings must be accompanied by a complete and detailed inventory of all equipment placed and installed in the Leased Area. Further, for the duration of this lease, LESSEE shall provide LESSOR "as built" plans and engineering drawings of the construction and equipment installed or constructed in the Leased Area subsequent to completion of the Stage Facility.

h. Access to Leased Area. To the extent that the LESSEE and its authorized representatives will be granted liberal access to the PREMISES prior to November 27, 2017, it is agreed that the same conditions presented in Paragraph 9.c., shall apply to the LESSEE and its authorized representatives as they pertain to the LESSEE's right of ingress and egress to the Leased Area. Apart from periods when the LESSEE occupies the Leased Area during Lifest and upon occasions when the LESSEE has secured rights to the PREMISES through a separate rental agreement, at no time shall LESSEE perform construction or maintenance related tasks on the Leased Area between the hours of 11:00 p.m. and 7 a.m..

i. Key Assignment and Responsibilities. At the commencement of this lease, LESSEE shall be assigned three (3) sets of keys that shall provide it access to the PREMISES using the designated route as described in Paragraph 9.c., and enable it to unlock such permissible electrical service fixtures as State Code Regulations will allow in order to accommodate LESSEE'S needs relating to the Leased Area. By July 1, 2018, LESSEE shall provide LESSOR with three (3) sets of keys that shall provide LESSOR with the ability to access the Leased Area and the equipment contained therein for safety and emergency purposes only. LESSEE shall be held responsible for any damages that may result in failure by the LESSEE, its representatives, agents, contractors, subcontractors, suppliers, assignees, or vendors to re-secure those locking mechanisms for which the LESSEE its representatives, agents, contractors, subcontractors, suppliers, assignees, or vendors have made use of while gaining road access to the PREMISES as well as occupying the PREMISES itself. Likewise, LESSOR shall be held responsible for any damages that may result in failure by the LESSOR, its representatives, agents, contractors, subcontractors, suppliers, assignees, or vendors to re-secure any Stage Facility related locking mechanisms for which the LESSOR its representatives or assignees have gained access to for safety or emergency purposes. Duplication of any of the aforementioned keys supplied by either LESSOR or LESSEE is prohibited unless prior written permission is given to do so by the respective party. LESSEE shall surrender said keys to the LESSOR upon termination of this lease.

j. Operation, Maintenance and Repair of Leased Area. During the term of this lease, LESSEE shall at its own expense keep, maintain and repair the Leased Area together with all electrical support systems located within the Leased Area, and any improvements made subsequent to completion of the Stage Facility, in a manner which will preserve, enhance and protect the general appearance and value of the PREMISES. Failure to maintain and repair shall be deemed a default under this lease. In the event LESSEE fails to comply with this subparagraph, LESSOR shall issue a written notice to LESSEE regarding its failure to maintain and repair. The notice must state with reasonable specificity (1) the nature of LESSEE'S failure to keep, maintain or repair, and (2) the remedy required by LESSOR to cure the default. In the event that LESSEE fails within thirty (30) days after receipt of LESSOR'S default notification under this paragraph, to commence appropriate action to cure such default, LESSOR shall have the right thereafter to cure said default in an efficient, effective, and good workmanlike manner, and to assess the costs thereof against LESSEE. LESSEE hereby agrees to pay any and all such assessments, including all costs, disbursements and reasonable attorney's fees incurred by LESSOR in curing said default within thirty (30) days after LESSOR'S demand. Provided, however, that if LESSEE commences appropriate action to cure a default as soon as reasonably possible thereafter. LESSOR shall have the option of declaring LESSEE in default and proceeding to cure the provision herein and permitting LESSEE to proceed with curing the failure to maintain or repair, if LESSEE is proceeding in a reasonable manner to do so. In the event that LESSOR determines that LESSEE has defaulted, LESSEE shall have the right to submit said determination to arbitration.

k. Waste Disposal. With the exception of any subsequent arrangements coordinated between LESSOR and LESSEE to address LESSEE'S construction related waste disposal needs, at its own expense LESSEE shall be responsible for properly addressing all waste disposal needs related to the operation and maintenance of the Leased Area. In either case, for the duration of the lease term, disposal of all construction and operations related waste materials will require that the LESSEE utilize the services of the LESSOR'S contracted Sunnyview Exposition Center waste disposal vendor to manage said needs, unless other means are permitted given the written approval of the LESSOR.

l. Placement of Perimeter Lighting. Separate from such periods when LESSEE occupies the PREMISES during Lifest and upon occasions when LESSEE has secured rights to the PREMISES through an Expo rental agreement apart from Lifest, LESSEE shall secure in advance written approval from the LESSOR before placing such perimeter lighting on or around the Stage Facility intended to illuminate regions outside the Leased Area for security or operational purposes.

m. Site Storage. Apart from periods when LESSEE occupies the Expo grounds during Lifest, and upon occasions when LESSEE has secured rights to the PREMISES through a separate rental agreement, LESSEE shall not store on or around the stage perimeter, susceptible to view by the public, any unsecured equipment, materials or supplies. Any screens or other devices used to keep equipment, materials or supplies from view will be subject to written approval by the Parks & Expo Director or his/her designee.

n. Installation of Signage. Apart from periods when LESSEE occupies the Expo grounds during Lifest, and upon occasions when LESSEE has secured rights to the PREMISES through a separate rental agreement, LESSEE shall secure in advance written approval from



the LESSOR before placing any signage within the Leased Area not directly related to the maintenance and operations of the Stage Facility.

o. Utilities. LESSEE, at its own expense, agrees to install or cause to be installed on the Leased Area, such electrical meters as may be necessary to enable LESSOR to ascertain and pay for all subsequent electrical utility costs related to the operations within the Leased Area.

p. LESSEE agrees to fully hold harmless, indemnify and release and forever discharge LESSOR and each of its present, former and future employees, elected officials, and representatives from any and all actions, debts, claims, counterclaims, demands, liabilities, damages, causes of action, costs, expenses and compensation of every kind and nature whatsoever, past, present, or future, against the LESSOR for any claims which relate to or arise out of the use or disposition of the Leased Area.

q. LESSEE and its successors, assigns, heirs and beneficiaries further agree not to institute any litigation, lawsuit, claim or action against the LESSOR which arises from, or is alleged to arise from, or relates to, or is based on, or is in any way connected with, in whole or in part, the LESSOR's use or disposition of the Leased Area.

r. In the event that a loss or damage occurs to the stage which has been caused by an act of neglect on the part of LESSEE, and provides a loss to the LESSOR, LESSEE shall, at its expense, repair, replace, or rebuild or cause to be repaired, replaced or rebuilt, any such property damaged or lost to its previous condition as soon as reasonably possible, and reimburse the LESSOR its agents, employees, other lessees, contractors and suppliers for any and all costs and expenses, including reasonable attorney's fees incurred as a result of such loss or damages.

s. Compliance with Laws. LESSEE agrees to comply with all laws, ordinances, rules and regulations promulgated by LESSOR and any governmental unit having jurisdiction, applicable to the construction, maintenance and operation of the Leased Area and to use said area in compliance therewith.

t. Liens. LESSEE agrees to promptly pay all sums legally due and payable on account of any labor performed on or materials furnished or services performed for the Leased Area. LESSEE shall not permit any liens to be placed against the Leased Area or PREMISES on account of labor performed or material furnished and in the event such a lien is placed against the Leased Area or PREMISES, LESSEE agrees to protect and hold harmless LESSOR from any and all such assorted claims and liens and to remove or cause to be removed any and all such asserted claims or liens as soon as reasonably possible.

u. Taxes. LESSEE shall have no obligation to pay any real property taxes attributable to the Leased Area. LESSEE shall have the obligation to pay any and all applicable income or other similar taxes that result from its operation in the Leased Area or as otherwise required by law.

v. Non-Assignment. LESSEE shall not at any time assign any part of this lease nor sublease nor assign any of the PREMISES without the prior written approval of LESSOR. Said approval shall not be unreasonably withheld.

w. Safety and Security. Separate from any benefits that may be derived by the LESSOR'S installment, maintenance and monitoring of video cameras within the PREMISES, the parties hereby agree that LESSEE assumes all responsibility and obligation for providing safety and security within the Leased Area.

#### **10. LESSEE'S FINANCIAL AND ACCOUNTING RESPONSIBILITIES.**

a. Operational Support. LESSEE shall provide all tools, equipment, and supplies that LESSEE deems necessary to conduct its operations.

b. Funding Support. If, at any time during the term of this lease, LESSEE has a lack of funding such that it will be unable to meet any or all of its financial obligations, LESSEE shall provide notice of such financial condition to the LESSOR at least thirty (30) days prior to the date any financial obligation may not be met.

#### **11. GRANTING OF NAMING RIGHTS.**

a. Extension of Naming Rights. In order to facilitate LESSEE in obtaining the funding and/or material support of parties interested in providing resources and/or funding necessary in the planning and construction of the Stage Facility, LESSOR agrees to allow LESSEE to utilize the option of granting naming rights to perspective parties who may wish to have the PREMISES and/or the Stage Facility titled in a manner compliant with Winnebago County Parks/Sunnyview Exposition Center Sponsorship Directives. Unless otherwise extended through subsequent terms and agreements directly set forth by the LESSOR to the involved parties, all such naming rights shall terminate upon expiration of this lease agreement.

b. Placement of Recognition Plaques. LESSOR agrees to allow LESSEE to place recognition plaques on the Stage Facility and/or within the PREMISES, to show appreciation to those individuals, organizations and businesses who have financially or materially assisted in development of the stage project. The plaques and their location(s) shall be approved by the Parks and Expo Director before installation and must follow Winnebago County Parks/Sunnyview Exposition Center Sponsorship Directives.

c. LESSOR'S Enactment of Naming Rights. In the event the LESSOR enters into a naming rights agreement for all or any part of the Sunnyview Exposition Center facilities separate from the PREMISES and Stage Facility, use of the newly established name(s) for such site(s) shall replace all previous facility name references in all promotional and advertising materials used by LESSEE, and/or the LESSEE'S agents, vendors, or subcontractors, for the remainder of this lease. LESSEE shall be obligated to complete change within 365 days of notification.

#### **12. QUIET ENJOYMENT.**

LESSOR covenants, warrants, and represents that it has full right and power to execute and perform this lease and to grant the estate leased herein and that LESSEE, in performance of the covenants and agreements herein contained, shall peaceably and quietly have, hold and enjoy the Leased Area during the full term of this lease, subject to LESSOR'S right to inspect the Leased Area as stated in Paragraph 13 hereunder.

**13. RIGHT OF ENTRY.**

LESSOR, its agents, and employees shall have the right to inspect the Leased Area at any reasonable time for the purpose of examining same and to ascertain if the associated structures, equipment and grounds are in good repair. Prior to any inspection by the LESSOR, it shall arrange with the LESSEE for a suitable time to make such inspection, except in emergency or safety related situations such as fire or other conditions hazardous to property or life.

**14. CIVIL RIGHTS ASSURANCES.**

LESSEE, in the use of the Leased Area for himself, his personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the Leased Area that (1) no person on the grounds of sex, race, color, creed, physical condition, developmental disability, sexual orientation, religion, national origin or ancestry shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities; (2) that in the construction or any improvements on, over, or under the Leased Area and the furnishing of services thereon, no person on the grounds of color, creed, physical condition, developmental disability, sexual orientation, religion, national origin or ancestry shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; and, (3) that the LESSOR shall not discriminate in its employment practices in contravention of Section 111.32, Wisconsin Statutes.

**15. REASONABLE EXERCISE OF LESSOR'S RIGHTS.**

All rights, privileges, options and powers as are reserved by LESSOR with respect to the Leased Area, shall be exercised in a reasonable manner, without unnecessary and unreasonable interference with the LESSEE'S use and occupancy of the Leased Area; and wherever LESSEE'S rights or privileges to act under this lease are stated to be subject to prior consent or approval of LESSOR, it is understood and agreed that consent or approval shall not be arbitrarily or unreasonably withheld.

**16. CONDEMNATION.**

If at any time during the term hereof the whole of the demised Leased Area shall be taken for any public or quasi-public use, under any statute, or by right of eminent domain, then in such event, when possession of the demised Leased Area shall have been taken thereunder by the condemning authority, the term hereby granted, and all right of the LESSEE hereunder, shall immediately cease and terminate. LESSEE shall be paid fair market value for any

improvement it caused upon the Leased Area. The value to be established as that prior to condemnation.

**17. DAMAGE TO LEASED AREA.**

In the event of partial or complete loss to the demised Leased Area by fire, the elements, accident, or occurrence, the LESSOR shall have no obligation to compensate LESSEE for any loss incurred except that caused by LESSOR'S negligence. LESSEE shall, within thirty (30) days of said loss give notice to LESSOR of its intent to repair or rebuild, or of its intent to terminate this lease. In the event that LESSEE chooses to repair or rebuild, the conditions and terms of this lease shall continue unabated.

In the event that a loss or occurrence on the Leased Area caused by an act of neglect of LESSEE causes a loss to the LESSOR'S or other property on the PREMISES, LESSEE shall, at its expense, repair, replace, or rebuild or cause to be repaired, replaced or rebuilt, any such property damaged or lost to its previous condition as soon as reasonably possible, and to reimburse LESSOR, its agents, employees, other lessees, contractors and suppliers for any and all costs and expenses, including reasonable attorney's fees incurred as a result of such loss or damage.

Any question regarding the reasonableness of LESSOR'S or LESSEE'S performance under this paragraph shall be submitted to arbitration, and the parties agree to be bound thereby.

**18. FUTURE DEVELOPMENT.**

LESSOR reserves the right to further develop or improve the PREMISES at LESSOR'S sole discretion, regardless of the desire or opinions of LESSEE, except LESSOR cannot cause material devaluation of LESSEE'S property by said development.

**19. LESSOR'S RIGHT TO TERMINATE.**

- a. The LESSOR shall have the right to terminate this lease in its entirety immediately upon occurrence of the following events:
  - 1) Filing of a petition, voluntary or involuntary, for the adjudication of LESSEE as a bankrupt.
  - 2) The making by LESSEE of any general assignment for the benefit of creditors.
  - 3) The abandonment by LESSEE of its demised Leased Area shall not be deemed abandonment as long as LESSEE is not in default of any of the terms of this lease.
  - 4) The lawful assumption by the United States Government or any authorized agency thereof of the operation and control or use of the PREMISES and its facilities, or any substantial part or parts thereof. In such event, the LESSEE may elect to terminate and exercise such dictates as promulgated in Paragraph 20.

b. Failure of LESSOR to declare this lease terminated upon a default by LESSEE for any of the reasons set out above shall not operate, bar, or destroy the right of LESSOR to cancel this lease by reason of any subsequent violation of the terms of this lease.

**20. UPON TERMINATION OF LEASE.**

At the termination of this lease, LESSEE shall transfer any titles that may be bound to the improvements contained within the Leased Area, to the LESSOR and LESSEE hereby agrees to execute all appropriate documents to vest title to said improvements to LESSOR free and clear of any and all liens and encumbrances.

**21. LIABILITY.**

a. Fire Liability. It is understood and agreed by the parties that in no event shall LESSOR be liable for any damages to the Leased Area or to any other property at the location caused by or resulting from fire, except for damage caused by LESSOR's negligence.

b. Damage Other Than That by or Resulting From Fire. It is understood and agreed that LESSOR shall not be liable for any non-fire-related repairs arising out of injury or damage to LESSEE'S property caused by LESSEE.

Insurance. LESSEE agrees, at its own cost and expense, to furnish the County Insurance Administrator with a Certificate of Insurance indicating proof of the following insurance:

- 1) Workers Compensation. Statutory in compliance with the Compensation law of the State.
- 2) General Liability Insurance with a minimum combined single limit of liability per occurrence for bodily injury and property damage of \$1,000,000. This insurance shall include on the Certificate of Insurance the following coverages:
  - a. Premises – Operations
  - b. Products and Completed Operations
  - c. Broad Form Property Damage
  - d. Blanket Contractual
  - e. Professional Liability, if applicable
- 3) Automobile Liability Insurance with a minimum combined single limit of liability per occurrence of \$1,000,000 for bodily injury and property damage for the following coverages:
  - a. Owned Automobiles, if applicable
  - b. Hired Automobiles
  - c. Non-Owned Automobiles
- 4) During construction LESSEE and its contractors shall provide all of the above insurance requirements where applicable including increased general liability limits of \$2,000,000 if explosion, underground and/or collapse is involved and \$5,000,000 if asbestos is involved.

**22. STORAGE OF FUEL.**

- a. Storage of Fuel. LESSEE is prohibited from installing, storing, or dispensing fuels on the Leased Area.

**23. SEVERABILITY.**

In the event that any provision herein contained is held to be invalid by any court of competent jurisdiction, the invalidity of any such provision shall in no way affect any other provision contained herein, provided that the validity of any such provisions does not materially prejudice either the LESSOR or the LESSEE in their respective rights and obligations contained in the valid provisions of this agreement.

**24. NOTICE.**

Any notice required or desired to be served by either party upon the other may be served by depositing such notice in certified United States mail, return receipt requested, in a sealed envelope, postage prepaid, and addressed as follows:

- a. To the LESSEE:

Life Promotions, Inc.  
Attn: David Romenesko  
2030 American Drive  
Neenah, Wisconsin 54956

- b. To the LESSOR:

Winnebago County Parks Department  
Attn: Robert Way  
625 East County Road Y  
Suite 500  
Oshkosh, Wisconsin 54901

**25. ENTIRE AGREEMENT.**

The entire agreement of the parties is contained herein and this agreement supersedes any and all oral agreements and negotiations between the parties relating to the subject matter hereof. Should any part of this agreement be held to be invalid by a Court of Law, said ruling shall not invalidate the remainder of this agreement. This agreement cannot be added to, altered or amended in any way except by written agreement signed by both parties hereto.

**26. SUCCESSORS AND ASSIGNS.**

The conditions, covenants, and agreements in the foregoing lease contained to be kept and performed by the parties hereto shall be binding upon said respective parties, their successors and assigns.

**27. RESOLUTIONS OF DISPUTES.**

This Agreement shall be covered by the laws of the State of Wisconsin. Claims, disputes, and other matters in question between the parties to this Agreement arising out of, or relating to this Agreement or the breach thereof, shall be decided by arbitration in accordance with the Arbitration Rules of the American Arbitration Association then pertaining, upon the express written consent of all parties to the Agreement. In the event the parties proceed to arbitration, the following shall govern any such proceeding.

- 1) The American Arbitration Association shall submit a panel of five arbitrators to the parties. The parties shall alternate strikes until one arbitrator remains who shall arbitrate the dispute. The party initiating the first strike shall be determined by the winner of a coin flip.
- 2) The costs of the arbitration proceedings (except for the filing fee, which shall be paid by the party initiating the proceeding) shall be borne equally by the parties. Each party shall pay his own fees and expenses incurred in connection with the proceeding.
- 3) Any arbitration shall take place in the City of Oshkosh, Winnebago County, WI.
- 4) Unless otherwise agreed by the parties, the arbitration hearing in this matter shall be limited to one day in length with the arbitrator providing each side equal time to present its case during the day.
- 5) That any discovery proceeding shall be limited to the thirty (30) day period prior to the date of the arbitration hearing. The party requesting the discovery shall pay for all costs incurred by the opposite party, except for attorney's fees, related to the discovery procedure, including, but not limited to, witness and reporter's fees related to depositions, photocopying fees, postage fees, and delivery fees.
- 6) That the arbitrator, in issuing any ruling with regard to any arbitration matter, shall issue a written decision which shall include written findings of fact and conclusions of law.
- 7) The proceeding and arbitration shall be governed by the laws of the State of Wisconsin, including specifically, chapter 788 of the Wisconsin Statutes, and either party may seek injunctive relief in a court of competent jurisdiction pending the arbitration determination.

**IN WITNESS WHEREOF**, the parties have caused this Agreement to be executed by their proper officers' thereunto duly authorized as of the day and year above written.

**LIFE PROMOTIONS, INC. Representative:**

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

Print Name: \_\_\_\_\_ Title: \_\_\_\_\_

**COUNTY Representative:**

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

Print Name: Mark Harris Title: Winnebago County Executive