

PROFESSIONAL SERVICES CONTRACT BETWEEN
THE CITY OF HUNTINGTON BEACH AND
SOUNDSKILZ, INC.
FOR
PRODUCTION AND MANAGEMENT SERVICE
OF THE ANNUAL FOURTH OF JULY CELEBRATION

THIS AGREEMENT ("Agreement") is made and entered into by and between the City of Huntington Beach, a municipal corporation of the State of California, hereinafter referred to as "CITY", and Soundskilz, Inc., a corporation, hereinafter referred to as "CONTRACTOR".

WHEREAS, CITY desires to engage the services of a CONTRACTOR in producing the 2021, 2022, and 2023 Fourth of July Celebration; and

Pursuant to documentation on file in the office of the City Clerk, the provisions of the Huntington Beach Municipal Code, Chapter 3.03, relating to procurement of professional service contracts have been complied with; and

CONTRACTOR has been selected to perform these services,

NOW, THEREFORE, it is agreed by CITY and CONTRACTOR as follows:

1. SCOPE OF SERVICES

CONTRACTOR shall provide all services as described in **Exhibit "A"**, which is attached hereto and incorporated into this Agreement by this reference. These services shall sometimes hereinafter be referred to as the "PROJECT."

CONTRACTOR hereby designates Steven Clayton, who shall represent it and be its sole contact and agent in all communications with CITY and CONTRACTOR during the performance of this Agreement.

2. CITY STAFF ASSISTANCE

CITY shall assign a staff coordinator to work directly with CONTRACTOR in the performance of this Agreement.

3. TERM; TIME OF PERFORMANCE

Time is of the essence of this Agreement. The services of CONTRACTOR are to commence on November 16th 2020 (the "Commencement Date"). This Agreement shall automatically terminate three (3) years after commencement on September 1, 2023, unless extended or sooner terminated as provided herein. Upon mutual agreement by both parties, the Agreement may be extended up to two (2) 1-year terms. All tasks specified in **Exhibit "A"** shall be completed on or before July 4 of each year in 2021, 2022, and 2023. The time for performance of the tasks identified in **Exhibit "A"** are generally to be shown in **Exhibit "A"**. This schedule may be amended to benefit the project if mutually agreed to in writing by CITY and CONTRACTOR.

In the event the Commencement Date precedes the Effective Date, CONTRACTOR shall be bound by all terms and conditions as provided herein.

4. COMPENSATION

In consideration of the performance of the services described herein, CITY agrees to pay CONTRACTOR a fixed Fee in quarterly installments as specified in **Exhibits "B"**, which is attached hereto and incorporated by reference into this Agreement. The Fee, including all costs and expenses, not to exceed -SIXTY-EIGHT THOUSAND, THREE HUNDRED DOLLARS (\$68,300) in 2021; SEVENTY-TWO THOUSAND, SEVEN HUNDRED DOLLARS (\$72,700) in 2022; and SEVENTY-SEVEN THOUSAND, FOUR HUNDRED (\$77,400) in 2023. Compensation for CONTRACTOR and CITY shall also include additional revenue opportunities as specified in Exhibit "B".

5. EXTRA WORK

In the event CITY requires additional services not included in **Exhibit "A"** or changes in the scope of services described in **Exhibit "A"**, CONTRACTOR will undertake such work only after receiving written authorization from CITY. Additional compensation for such extra work shall be allowed only if the prior written approval of CITY is obtained.

6. METHOD OF PAYMENTS

CONSULTANT agrees that title to all materials prepared hereunder, including, without limitation, all original drawings, designs, reports, site plans, vendor lists, sponsor contracts and agreements, parade entry contact information, timelines, runner and volunteer databases, service provider invoices and contact information, parade scripts, web domains, login and passwords for websites and social media accounts, maps/routes, memoranda, letters, spreadsheets, and other documents, shall belong to CITY, and CONSULTANT shall turn these materials over to CITY immediately upon request, or upon expiration or termination of this Agreement, or upon completion of PROJECT, whichever shall occur first. These materials may be used by CITY as it sees fit.

7. DISPOSITION OF PLANS, ESTIMATES AND OTHER DOCUMENTS

CONSULTANT agrees that title to all materials prepared hereunder, including, without limitation, all original drawings, designs, reports, site plans, vendor lists, sponsor contracts and agreements, parade entry contact information, timelines, runner and volunteer databases, service provider invoices and contact information, parade scripts, web domains, login and passwords for websites and social media accounts, maps/routes, memoranda, letters, spreadsheets, and other documents, shall belong to

CITY, and CONSULTANT shall turn these materials over to CITY immediately upon request, or upon expiration or termination of this Agreement, or upon completion of PROJECT, whichever shall occur first. These materials may be used by CITY as it sees fit.

8. CONTINGENCY ALLOWANCE

CITY shall provide a Contingency Allowance of no more than TEN-THOUSAND DOLLARS (\$10,000) to cover variations that may occur in the expected values of elements of cost or schedule, however, do not apply to scope or quality. City must preapprove at its sole discretion any Contingency Allowance.

9. HOLD HARMLESS

CONTRACTOR hereby agrees to protect, defend, indemnify and hold harmless CITY, its officers, elected or appointed officials, employees, agents and volunteers from and against any and all claims, damages, losses, expenses, judgements, demands and defense costs (including, without limitation, costs and fees of litigation of every nature or liability of any kind or nature) arising out of or in connection with CONTRACTOR's (or CONTRACTOR's sub-contractors, if any) negligent (or alleged negligent) performance of this Agreement or its failure to comply with any of its obligations contained in this Agreement by CONTRACTOR, its officers, agents or employees except such loss or damage which was caused by the sole negligence or willful misconduct of CITY. CONTRACTOR will conduct all defense at its sole cost and expense and CITY shall approve selection of CONTRACTOR's counsel. This indemnity shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as limitation upon the amount of indemnification to be provided by CONTRACTOR.

10. PROFESSIONAL LIABILITY INSURANCE

CONTRACTOR shall obtain and furnish to CITY a professional liability insurance policy covering the work performed by it hereunder. This policy shall provide coverage for CONTRACTOR's professional liability in an amount not less than One Million Dollars (\$1,000,000.00) per occurrence and in the aggregate. The above-mentioned insurance shall not contain a self-insured retention, "deductible" or any other similar form of limitation on the required coverage except with the express written consent of CITY. A claims-made policy shall be acceptable if the policy further provides that:

- A. The policy retroactive date coincides with or precedes the initiation of the scope of work (including subsequent policies purchased as renewals or replacements).
- B. CONTRACTOR shall notify CITY of circumstances or incidents that might give rise to future claims.

CONTRACTOR will make every effort to maintain similar insurance during the required extended period of coverage following PROJECT completion. If insurance is terminated for any reason, CONTRACTOR agrees to purchase an extended reporting provision of at least two (2) years to report claims arising from work performed in connection with this Agreement.

If CONTRACTOR fails or refuses to produce or maintain the insurance required by this section or fails or refuses to furnish the CITY with proof that insurance has been procured and is in force and paid for, the CITY shall have the right, at the CITY's election, to forthwith terminate this Agreement. Such termination shall not affect CONTRACTOR's right to be paid for its time and materials expended prior to notification

of termination. CONTRACTOR waives the right to receive compensation and agrees to indemnify the CITY for any work performed prior to approval of insurance by the CITY.

11. CERTIFICATE OF INSURANCE

Prior to commencing performance of the work hereunder, CONTRACTOR shall furnish to CITY a certificate of insurance subject to approval of the City Attorney evidencing the foregoing insurance coverage as required by this Agreement; the certificate shall:

- A. provide the name and policy number of each carrier and policy;
- B. state that the policy is currently in force; and
- C. promise that such policy shall not be suspended, voided or canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice; however, ten (10) days' prior written notice if the event of cancellation for nonpayment of premium.

CONTRACTOR shall maintain the foregoing insurance coverage in force until the work under this Agreement is fully completed and accepted by City.

The requirement for carrying the forgoing insurance coverage shall not derogate from CONTRACTOR's defense, hold harmless and indemnification obligations as set forth in this Agreement. CITY or its representative shall at all times have the right to demand the original or a copy of the policy of insurance. CONTRACTOR shall pay, in a prompt and timely manner, the premiums on the insurance hereinabove required.

12. INDEPENDENT CONTRACTOR

CONTRACTOR is, and shall be, acting at all times in the performance of this Agreement as an independent contractor herein and not as an employee of CITY.

CONTRACTOR shall secure at its own cost and expense, and be responsible for any and all payment of all taxes, social security, state disability insurance compensation, unemployment compensation and other payroll deductions for CONTRACTOR and its officers, agents and employees and all business licenses, if any, in connection with the PROJECT and/or the services to be performed hereunder.

13. TERMINATION OF CONTRACT

A. CITY may terminate this Agreement without cause, effective after 30 days' prior written notice to CONTRACTOR ("Notice Period"). In the case of termination without cause:

- (i) CITY shall release CONTRACTOR from all obligations under this contract, and shall assume full liability for all existing vendor, subcontractor, supplier, sponsor, talent and venue contracts that have been entered into as part of the Event and previously approved by CITY;
- (ii) CONTRACTOR shall be entitled to payment for the current PROJECT year up until the date of termination and shall be paid the outstanding balance of the fee within seven (7) days of receiving a final invoice detailing work completed. CONTRACTOR shall also be entitled to retain all commissions earned through the sales of CITY-approved sponsorships prior to the date of termination, and, in the case of multi-year sponsorship agreements, CONTRACTOR may retain said commissions, however, the City shall not be responsible for the payment thereof.

(iii) CONTRACTOR shall deliver an audit report to CITY detailing the status of the PROJECT budget and all accounts payable/receivable, and transfer the balance of all funds held on behalf of CITY, less applicable sponsor commissions due to the CONTRACTOR, to CITY's designated fiduciary or account no later than the conclusion of the Notice Period.

(iv) CONTRACTOR shall work amicably with CITY to effectively transfer all PROJECT communications, contacts, materials and operations to CITY-designated agents and assignees.

14. ASSIGNMENT AND DELEGATION

This Agreement is a personal service contract and the work hereunder shall not be assigned, delegated or subcontracted by CONTRACTOR to any other person or entity without the prior express written consent of CITY. If an assignment, delegation or subcontract is approved, all approved assignees, delegates and sub-contractors must satisfy the insurance requirements as set forth in Section 9 and 10 hereinabove.

15. COPYRIGHTS/PATENTS

CITY shall own all rights to any patent or copyright on any work, item or material produced as a result of this agreement.

16. CITY EMPLOYEES AND OFFICIALS

CONTRACTOR shall employ no CITY official nor any regular CITY EMPLOYEE IN THE WORK PERFORMED PURSUANT TO THIS Agreement. No officer or employee of CITY shall have any financial interest in this Agreement in violation of the applicable provisions of the *California Government Code*.

17. NOTICES

Any notices, certificates, or other communications hereunder shall be given either by personal delivery to CONTRACTOR's agent (as designed in Section 1 hereinabove) or to CITY as the situation shall warrant, or by enclosing the same in a sealed envelope, postage prepaid, and depositing the same in the United States Postal Service, to the addresses specified below. CITY and CONTRACTOR may designate different addresses to which subsequent notices, certificates or other communications will be sent by notifying the other party via personal delivery, or reputable overnight carrier or U.S. certified mail-return receipt requested:

TO CITY:

City of Huntington Beach
ATTN: Oliver Chi
2000 Main Street
Huntington Beach, CA 92648

TO CONTRACTOR:

Soundskilz, Inc.
ATTN: Steven Clayton
39444 Calle Portillo
Temecula, CA 92592

18. CONSENT

When CITY's consent/approval is required under this Agreement, its consent/approval for one transaction or event shall not be deemed to be consent/approval to any subsequent occurrence of the same or any other transaction or event.

19. MODIFICATION

No waiver or modification of any language in this Agreement shall be valid unless in writing and duly executed by both parties.

20. SECTION HEADINGS

The titles, captions, section, paragraph and subject headings, and descriptive phrases at the beginning of the various sections in this Agreement are merely descriptive and are included solely for convenience of reference only and are not

representative of matters included or excluded from such provisions, and do not interpret, define, limit or describe, or construe the intent of the parties or affect the construction or interpretation of any provision of this Agreement.

21. INTERPRETATION OF THIS AGREEMENT

The language of all parts of this Agreement shall in all cases be construed as a whole, according to its fair meaning, and not strictly for or against any of the parties. If any provision of this Agreement is held by an arbitrator or court of competent jurisdiction to be unenforceable, void, illegal or invalid, such holding shall not invalidate or affect the remaining covenants and provisions of this Agreement. No covenant or provision shall be deemed dependent upon any other unless so expressly provided here. As used in this Agreement, the masculine or neuter gender and singular or plural number shall be deemed to include the other whenever the context so indicates or requires. Nothing contained herein shall be construed so as to require the commission of any act contrary to law, and wherever there is any conflict between any provision contained herein and any present or future statute, law, or ordinance or regulation contrary to which the parties have no right to contract, then the latter shall prevail, and the provision of this agreement which is hereby affected shall be curtailed and limited only to the extent necessary to bring it within the requirements of the law.

22. DUPLICATE ORIGINAL

The original of this Agreement and one or more copies hereto have been prepared and signed in counterparts as duplicate originals, each of which so executed shall, irrespective of the date of its execution and delivery, be deemed an original. Each duplicate original shall be deemed an original instrument as against any party who has signed it.

23. IMMIGRATION

CONTRACTOR shall be responsible for full compliance with the immigration and naturalization laws of the United States and shall, in particular, comply with the provisions of the *United States Code* regarding employment verification.

24. LEGAL SERVICES SUB-CONTRACTING PROHIBITED

CONTRACTOR and CITY agree that CITY is not liable for payment of any subcontractor work involving legal services, and that such legal services are expressly outside the scope of services contemplated hereunder. CONTRACTOR understands that pursuant to *Huntington Beach City Charter* Section 309, the City Attorney is the exclusive legal counsel for CITY; and CITY shall not be liable for payment of any legal services expenses incurred by CONTRACTOR.

25. ATTORNEY'S FEES

In the event suit is brought by either party to construe, interpret and/or enforce the terms and/or provisions of this Agreement or to secure the performance hereof, each party shall bear its own attorney's fees, such that the prevailing party shall not be entitled to recover its attorney's fees from the non-prevailing party.

26. SURVIVAL

Terms and conditions of this Agreement, which by their sense and context survive the expiration or termination of the Agreement, shall so survive.

27. GOVERNING LAW

This Agreement shall be governed and construed in accordance with the laws of the State of California.

28. SIGNATORIES

Each undersigned represents and warrants that its signature herein below has the power, authority and right to bind their respective parties to each of the terms of this Agreement, and shall indemnify CITY fully for any injuries or damages to CITY in the event that such authority or power is not, in fact, held by the signatory or is withdrawn.

29. ENTIRETY

The parties acknowledge and agree that they are entering into this Agreement freely and voluntarily following extensive arm's length negotiations, and that each has had the opportunity to consult with legal counsel prior to executing this Agreement. The parties also acknowledge and agree that no representations, inducements, promises, agreements or warranties, oral or otherwise, have been made by that party or anyone acting on the party's behalf, which are not embodied in this Agreement, and that party has not executed this Agreement in reliance on any representation, inducement, promise, agreement, warranty, fact or circumstance not expressly set forth in this Agreement. This Agreement, and the attached exhibits, contain the entire agreement between the parties respecting the subject matter of this Agreement, and supersede all prior understandings and agreements whether oral or in writing between the parties respecting the subject matter hereof.

30. EFFECTIVE DATE

This agreement shall be effective on the date of its approval by the City Attorney. This Agreement shall expire when terminated as provided herein.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their authorized officers.

CONTRACTOR,
SOUNDSKILZ, INC, a corporation

CITY OF HUNTINGTON BEACH,
a municipal corporation of the State of California

By: [Signature]

Stephen Clayton
print name

ITS: (circle one) Chair President Vice President

AND

By: [Signature]

Stephen Clayton
print name

ITS: (circle one) Secretary Chief Financial Officer
Secretary - Treasurer

Director/Chief
(Pursuant to HBMC 3.03.100)

APPROVED AS TO FORM:

[Signature]
City Attorney

Date: _____

RECEIVED AND FILE:

City Clerk

Date: _____

COUNTERPART

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their authorized officers.

CONTRACTOR,
SOUNDSKILZ, INC, a corporation

By: _____

_____ print name

ITS: (circle one) Chair/President/Vice President

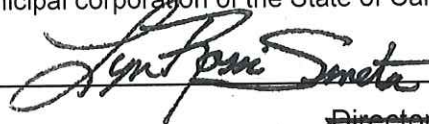
AND

By: _____

_____ print name

ITS: (circle one) Secretary/Chief Financial Officer/
Secretary - Treasurer

CITY OF HUNTINGTON BEACH,
a municipal corporation of the State of California



~~Director/Chief~~

(Pursuant to HBMC 3.03.100) Mayor

APPROVED AS TO FORM:


City Attorney

Date: _____

RECEIVED AND FILE:


City Clerk 

Date: 11/17/2020

COUNTERPART

EXHIBIT "A"
CONTRACTOR SCOPE OF SERVICES
SOUNDSKILZ, INC.

A. STATEMENT OF WORK:

The CONTRACTOR is required to attend planning meetings with the BOARD and CITY staff as needed. CONTRACTOR shall assume responsibility, in conjunction with the CITY and the BOARD for all planning; sponsorship procurement; music and entertainment procurement; sub-contractor management; volunteer development; pre-, day-of, and post-event public / media relations; pre-, day-of, and post-event production and management; and all other facets of event production and management. Of note, deliverables must communicate the CITY's message of "family-friendly" events and activities.

B. CONTRACTOR'S DUTIES AND RESPONSIBILITIES:

In general, CONTRACTOR will provide or sub-contract the following services. These services are general in nature and are not all-inclusive of the duties and responsibilities of the CONTRACTOR.

- Research & Monthly Planning
 - Legacy review of prior Event years to ascertain and evaluate best practices, budget history and preferred vendor relationships;
 - Conduct surveys of previous Event partners to solicit feedback and identify key success elements;
 - Attend and contribute to monthly Fourth of July Executive Board meetings;
- Marketing & Sponsorship
 - Develop and manage omni-channel online/social, OOH and print marketing campaign concepts and fulfillment;
 - Review overall Event sponsorship program and recommend strategies and activations to maximize revenue potential;

- Solicit, negotiate and implement/manage all BOARD-approved sponsorship contracts;
- Financial Planning
 - Develop a comprehensive Event budget for approval by the CITY;
 - Manage all Budget and Scope changes as required to deliver the Event within the approved budget;
 - Manage, collect and securely hold all sponsorship, booth sales, donations, food, beverage, merchandise cash receipts collected during the Event, and other forms of revenue;
 - Settlement of all vendors and invoices within the Scope of Services;
 - Reconciliation of budgets and weekly/monthly financial reporting to the CITY as requested;
 - Produce a final audit and settlement of all revenues and expenses after the completion of the Event;
- Parade Planning
 - Develop/distribute parade application;
 - Assist BOARD with parade entries selection;
 - Develop parade info/FAQ for participants and distribute to all attendees;
 - Coordinate logistics, security, route closures & equipment needs with City Staff and departments;
 - Oversee media credentialing and coverage opportunities with media affiliates and approved media outlets;
 - Develop parade scripts for announcers;
 - Oversee parade line-up, staging and disbanding;
 - Secure and setup adequate VIP area staging and seating, and required AV production elements for parade coverage/announcers;
- Festival/Pier Planning
 - Develop/distribute vendor application;

- Develop logistics diagram, assign vendor booth spaces and oversee staging/AV setups for entertainment;
- Solicit and confirm entertainment program;
- Develop volunteer program and recruit volunteers;
- Coordinate board member and volunteer assignments;
- Coordinate security and logistical planning with CITY Staff and departments;
- Fireworks Planning
 - Oversee RFP process to award fireworks display contract;
 - Oversee and manage winning bidder for execution of all deliverables;
 - Coordinate security and logistical planning with CITY Staff and departments;
 - Develop/approve musical programming and secure all required licensing/clearances;
- Run Event Planning
 - Oversee subcontractors and/or provide primary run program management;
 - Manage t-shirt, runner medals and branded merchandise program;
 - Coordinate event marketing and oversee/develop runner registration;
 - Provide professional timing services and runner results;
 - Coordinate logistics, route planning, safety and street closures with City Staff and departments ;
 - Coordinate runner's expo event if so authorized as part of final Event budget/scope;
- "Block Party" (July 3 of each year during Term):
 - Be responsible for all planning phases of Block Party
 - Coordinate sponsor recognition

- Develop a production schedule for Block Party and provide information to CITY and the BOARD in a timely manner
 - Solicit donations for Block Party
 - Book entertainment for Block Party
 - Operate auction for Block Party
 - Secure venue or location for Block Party
 - Coordinate Food & Beverage for Block Party
 - Develop a comprehensive budget for Block Party
 - Manage all budget and scope changes as required to deliver Block Party within the approved budget
 - Manage, collect and securely hold all income from Block Party sponsorship sales, vendor/exhibitor booth sales, donations, raffle ticket and live/silent auction sales, merchandise sales and all other forms of revenue collected during Block Party
 - Settlement of all Block Party service provider fees and invoices within the Scope of Service
 - Reconciliation of budgets and provide weekly/monthly financial reporting of Block Party to CITY as requested
 - Produce a final audit and settlement of all revenues and expenses after the completion of Block Party
- Collaborate with other contractors, consultants, and vendors CITY may hire in the course of presenting the event.
 - Specific Event Permit - CONTRACTOR shall apply for and obtain a City of Huntington Beach Specific Event Permit in accordance to Municipal Code 13.54. Specific Event Permit fees to be waived by CITY.

C. CITY'S DUTIES AND RESPONSIBILITIES:

1. CITY will designate a staff liaison through the Director of Community Services and any change in that person will be noticed in writing.
2. CITY shall provide meeting rooms for meetings, when available, at no cost to CONSULTANT or CONTRACTOR.
3. CITY will assist with promotion and marketing of the event through social media, placing information on the CITY's website, and allowing promotional materials to be placed in City Hall and community facilities, such as community centers and libraries.
4. The CITY's staff liaison will work with CONSULTANT and CONTRACTOR on providing a VIP and dignitary list.

D. WORK PROGRAM/PROJECT SCHEDULE:

1. Work shall commence upon execution of the agreement by both parties and approval by the City Council of the City of Huntington Beach.
2. All tasks specified in **Exhibit "A"** shall be completed on or before July 4 of each year in 2021, 2022, and 2023.
3. This schedule may be amended to benefit the project if mutually agreed to in writing by CITY and CONSULTANT.
4. In the event the Commencement Date precedes the Effective Date, CONSULTANT shall be bound by all terms and conditions as provided herein.
5. CITY shall apply for and obtain Caltrans street closure permits.

EXHIBIT "B"

Payment Schedule

(2021-\$68,300; 2022-\$72,700; 2023-\$77,400)

1. CONSULTANT shall be entitled to monthly quarterly installment payments toward the fixed Fee set forth herein in accordance with the following progress and payment schedules. Upon submission of any invoice, if CITY is satisfied that CONTRACTOR is making satisfactory progress toward completion of tasks in accordance with this Agreement, CITY shall approve and process the appropriate installment payments, within thirty (30) days of receipt of said invoice by CITY. Such approval shall not be unreasonably withheld. If CITY does not approve an invoice, CITY shall notify CONTRACTOR in writing of the reasons for non-approval and the schedule of performance set forth in **Exhibit "A"** may at the option of CITY be suspended until the parties agree that past performance by CONTRACTOR is in, or has been brought into compliance, or until this Agreement has expired or is terminated as provided herein. Such invoices shall:

- A) Reference this Agreement;
- B) Describe the services performed;
- C) Show the total amount of the payment due;
- D) Include a certification by a principal member of CONTRACTOR's firm that the work has been performed in accordance with the provisions of this Agreement; and
- E) For all payments include an estimate of the percentage of work completed.

2. CONTRACTOR shall use the Fourth of July Fee Schedule as included in the City Council approved Master Fee and Charges Schedule, Community Services-Charges, Resolution #2019-87, and any subsequently updated Fee Resolution during the Term of the Agreement:

3. Any billings for extra work or additional services authorized in advance and in writing by CITY shall be invoiced separately to CITY. Such invoice shall contain all of

the information required above, and in addition shall list the hours expended and hourly rate charged for such time. Such invoices shall be approved by CITY if the work performed is in accordance with the extra work or additional services requested, and if CITY is satisfied that the statement of hours worked and costs incurred is accurate. Such approval shall not be unreasonably withheld. Any dispute between the parties concerning payment of such an invoice shall be treated as separate and apart from the ongoing performance of the remainder of this Agreement.

1. BUDGET, FEES & TERMS OF PAYMENT

- a. CONTRACTOR shall provide the Services described herein for a Fee of SIXTY-EIGHT THOUSAND THREE HUNDRED DOLLARS (\$68,300.00) during the first year of the Agreement. For each subsequent year during the Term related to the 2022 and 2023 Events, the Fee shall be increased by 7.5%, respectively.
- b. The Fee shall be paid to CONTRACTOR in installments during the first year of the Agreement as follows:
 - (i) 50% due upon execution of Agreement;
 - (ii) 16.66% due no later than Feb 1, 2021;
 - (iii) 16.66% due no later than April 15, 2021;
 - (iv) 16.66% due no later than July 10, 2021;
- c. The Fee for each subsequent year in the Term, related to the 2022 and 2023 Events, shall be due with a 50% first installment and three (3), 16.66% installments every 90 days, with the first payment due on September 1, 2021 and 2022.
- d. In addition to the Fee, CONTRACTOR shall be eligible to earn additional compensation as follows:
 - (i) 10% commission on sponsorship contracts originated by CONTRACTOR up to the first \$50,000 in aggregate cash value of such contracts; 15% commission for sponsorship amounts above \$50,000;
 - (ii) CONTRACTOR may provide subcontractor services required for the Event that are within CONTRACTOR's direct capabilities, provided that CONTRACTOR charge competitive

market rates for such services and provide advance disclosure to the CITY of the areas in which it intends to provide the services.

- e. In consultation with the CITY, CONTRACTOR will develop an initial Budget Estimate for the entire Event to be submitted for adoption by CITY and BOARD no later than 14 days after completion of the Legacy Review.
- f. During the Term, CONTRACTOR shall notify the CITY of any anticipated or known material increase to the EVENT Budget, defined as any change due to an individual line item or group of related items which change in price for any reason, increase the EVENT Budget by more than \$5,000.00 and represent an unfunded budget expense against known revenues. The CITY shall have 72 hours from receipt of notice to approve, modify or cancel the relevant Scope of Work related to the material increase. Failure of the CITY to modify or cancel the relevant scope of work within the notice period shall constitute approval of the material increase and financial obligations associated therewith.
- g. From time to time, the CITY may request changes to the Scope of Work or Services, which must be submitted to CONTRACTOR in writing, at which time CONTRACTOR shall provide the CITY with a written analysis and financial estimate as soon as is reasonably possible, detailing the costs and feasibility of the CITY request. The CITY request shall not become binding upon CONTRACTOR nor be included in the Services, unless and until the CITY approves the financial estimate and revenue allocation recommended by CONTRACTOR, and CONTRACTOR certifies the request as feasible within the Scope of the Services.
- h. CONTRACTOR shall operate and maintain a special purpose dedicated checking account for the EVENT, and make all deposits and payments related to the EVENT using the dedicated account. The CITY shall be granted access to the account for reporting/audit purposes and furnished with copies of each monthly statement from the account.

- i. CONTRACTOR shall maintain copies of all purchase orders, invoices, contracts, receipts, deposits and expenses paid on behalf of the EVENT and provide CITY with copies of same.
- j. All payments due to CONTRACTOR are to be made by wire transfer or direct deposit.



SOUNENT-01

CHANDRAPESKIN

DATE (MM/DD/YYYY)

11/13/2020

CERTIFICATE OF LIABILITY INSURANCE

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
NFP Property & Casualty Services, Inc.
2450 Tapo Street
Simi Valley, CA 93063

CONTACT NAME: Denise Reeder

PHONE (A/C, No, Ext): (805) 537-0145

FAX (A/C, No): (805) 579-1916

E-MAIL ADDRESS: Denise.Reeder@nfp.com

INSURER(S) AFFORDING COVERAGE

NAIC #

INSURER A: Hartford Insurance Company of the Midwest 37478

INSURER B: Hartford Underwriters Insurance Company 30104

INSURER C: Hartford Fire Insurance Company 19682

INSURER D:

INSURER E:

INSURER F:

INSURED

Soundskilz Entertainment, Inc.
41555 Cherry St., Ste. 1
Murrieta, CA 92562

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			72UUNCD7349	9/17/2020	9/17/2021	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
B	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			72UUNCD7349	9/17/2020	9/17/2021	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB EXCESS LIAB DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	72WEAH4NYN	10/2/2020	10/2/2021	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
C	Equipment Floater/Co			72UUNCD7349	9/17/2020	9/17/2021	Limit 500,000
C	Equipment Floater/Co			72UUNCD7349	9/17/2020	9/17/2021	Deductible 2,500

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

APPROVED AS TO FORM

By:
MICHAEL E. GATES
CITY ATTORNEY
CITY OF HUNTINGTON BEACH

CERTIFICATE HOLDER

CANCELLATION

City of Huntington Beach
2000 Main Street
Huntington Beach, CA 92648

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE



AGENCY CUSTOMER ID: SOUNENT-01

CHANDRAPESKIN

LOC #: 1

ADDITIONAL REMARKS SCHEDULE

Page 1 of 1

AGENCY NFP Property & Casualty Services, Inc.		NAMED INSURED Soundskilz Entertainment, Inc. 41555 Cherry St., Ste. I Murrieta, CA 92562 Riverside	
POLICY NUMBER SEE PAGE 1			
CARRIER SEE PAGE 1	NAIC CODE SEE P 1	EFFECTIVE DATE: SEE PAGE 1	

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: ACORD 25 FORM TITLE: Certificate of Liability Insurance

Certificate Liability Remarks
CONTRACTUAL INSURANCE REQUIREMENTS

The attached Certificate of Insurance is provided as part of our service to our client, the Insured. If special endorsements have been provided, they also are indicated attached. You may find that these documents do not comply with all the terms and conditions of the underlying contract between the Certificate Holder and the Insured due to the Insurance company's insuring conditions, limitations, exclusions and other terms. If you have any questions, please contact the undersigned.

NFP P&C
CA LICENSE #0F15715
2450 TAPO ST
SIMI VALLEY, CA 93063
TELEPHONE: (805) 579-1900
FAX: (805) 579-1916

Hired Auto Physical Damage
Limit - \$100,000 - ACV
Collision Deductible - \$1,000
Comprehensive Deductible - \$1,000

Additional Insured City of Huntington Beach

The City of Huntington Beach, its officers elected or appointed officials, employees, agents and volunteers are included as additional insured as required by written contract or agreement but only as respect to operations of the named insured per attached General Liability form HG00010916 and Auto Liability form HA99160312. General Liability coverage is Primary and Non-Contributory per attached form HG00010916.

SECTION II - WHO IS AN INSURED

1. If you are designated in the Declarations as:

- a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
- b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
- c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
- d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
- e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

2. Each of the following is also an insured:

a. Employees And Volunteer Workers

Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business.

However, none of these "employees" or "volunteer workers" are insureds for:

- (1) "Bodily injury" or "personal and advertising injury":
 - (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;
 - (b) To the spouse, child, parent, brother or sister of that co-"employee" or that

"volunteer worker" as a consequence of Paragraph (1)(a) above;

- (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraphs (1)(a) or (1)(b) above; or
- (d) Arising out of his or her providing or failing to provide professional health care services.

If you are not in the business of providing professional health care services:

- (a) Subparagraphs (1)(a), (1)(b) and (1)(c) above do not apply to any "employee" or "volunteer worker" providing first aid services; and
- (b) Subparagraph (1)(d) above does not apply to any nurse, emergency medical technician or paramedic employed by you to provide such services.

(2) "Property damage" to property:

- (a) Owned, occupied or used by,
- (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by

you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

b. Real Estate Manager

Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.

c. Temporary Custodians Of Your Property

Any person or organization having proper temporary custody of your property if you die, but only:

- (1) With respect to liability arising out of the maintenance or use of that property; and
- (2) Until your legal representative has been appointed.

d. Legal Representative If You Die

Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.

e. Unnamed Subsidiary

Any subsidiary, and subsidiary thereof, of yours which is a legally incorporated entity of which you own a financial interest of more than 50% of the voting stock on the effective date of the Coverage Part.

The Insurance afforded herein for any subsidiary not named in this Coverage Part as a named insured does not apply to injury or damage with respect to which such insured is also a named insured under another policy or would be a named insured under such policy but for its termination or the exhaustion of its limits of insurance.

3. Newly Acquired Or Formed Organization

Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain financial interest of more than 50% of the voting stock, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

- a. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier;
- b. Coverage A does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
- c. Coverage B does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

4. Nonowned Watercraft

With respect to watercraft you do not own that is less than 51 feet long and is not being used to carry persons for a charge, any person is an insured while operating such watercraft with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the watercraft, and only if no other insurance of any kind is available to that person or organization for this liability.

However, no person or organization is an insured with respect to:

- a. "Bodily injury" to a co-"employee" of the person operating the watercraft; or
- b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.

5. Additional Insureds When Required By Written Contract, Written Agreement Or Permit

The following person(s) or organization(s) are an additional insured when you have agreed, in a written contract, written agreement or because of a permit issued by a state or political subdivision, that such person or organization be added as an additional insured on your policy, provided the injury or damage occurs subsequent to the execution of the contract or agreement.

A person or organization is an additional insured under this provision only for that period of time required by the contract or agreement.

However, no such person or organization is an insured under this provision if such person or organization is included as an insured by an endorsement issued by us and made a part of this Coverage Part.

a. Vendors

Any person(s) or organization(s) (referred to below as vendor), but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business and only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

- (1) The insurance afforded the vendor is subject to the following additional exclusions:

This insurance does not apply to:

- (a) "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
- (b) Any express warranty unauthorized by you;
- (c) Any physical or chemical change in the product made intentionally by the vendor;
- (d) Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
- (e) Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;
- (f) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;
- (g) Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or

- (h) "Bodily Injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

- (i) The exceptions contained in Sub-paragraphs (d) or (f); or
 - (ii) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.
- (2) This insurance does not apply to any insured person or organization, from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.

b. Lessors Of Equipment

- (1) Any person(s) or organization(s) from whom you lease equipment; but only with respect to their liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person(s) or organization(s).
- (2) With respect to the insurance afforded to these additional insureds this insurance does not apply to any "occurrence" which takes place after the equipment lease expires.

c. Lessors Of Land Or Premises

Any person or organization from whom you lease land or premises, but only with respect to liability arising out of the ownership, maintenance or use of that part of the land or premises leased to you.

With respect to the insurance afforded these additional insureds the following additional exclusions apply:

This insurance does not apply to:

1. Any "occurrence" which takes place after you cease to lease that land; or
2. Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

d. Architects, Engineers Or Surveyors

Any architect, engineer, or surveyor, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or

omissions of those acting on your behalf:

- (1) In connection with your premises; or
- (2) In the performance of your ongoing operations performed by you or on your behalf.

With respect to the insurance afforded these additional insureds, the following additional exclusion applies:

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or the failure to render any professional services by or for you, including:

1. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
2. Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of or the failure to render any professional services by or for you.

e. Permits Issued By State Or Political Subdivisions

Any state or political subdivision, but only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.

With respect to the insurance afforded these additional insureds, this insurance does not apply to:

- (1) "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the state or municipality; or
- (2) "Bodily injury" or "property damage" included within the "products-completed operations hazard".

f. Any Other Party

Any other person or organization who is not an additional insured under Paragraphs a. through e. above, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

- (1) In the performance of your ongoing operations;

- (2) In connection with your premises owned by or rented to you; or
- (3) In connection with "your work" and included within the "products-completed operations hazard", but only if
 - (a) The written contract or agreement requires you to provide such coverage to such additional insured; and
 - (b) This Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

However:

- (1) The insurance afforded to such additional insured only applies to the extent permitted by law; and
- (2) If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

With respect to the insurance afforded to these additional insureds, this insurance does not apply to:

"Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

- (1) The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
- (2) Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of or the failure to render any professional services by or for you.

The limits of insurance that apply to additional insureds is described in Section III - Limits Of Insurance.

How this insurance applies when other insurance is available to the additional insured is described in the Other Insurance Condition in Section IV - Commercial General Liability Conditions.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

SECTION III - LIMITS OF INSURANCE

1. The Most We Will Pay

The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:

- a. Insureds;
- b. Claims made or "suits" brought; or
- c. Persons or organizations making claims or bringing "suits".

2. General Aggregate Limit

The General Aggregate Limit is the most we will pay for the sum of:

- a. Medical expenses under Coverage C;
- b. Damages under Coverage A, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard"; and
- c. Damages under Coverage B.

3. Products-Completed Operations Aggregate Limit

The Products-Completed Operations Aggregate Limit is the most we will pay under Coverage A for damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard".

4. Personal And Advertising Injury Limit

Subject to 2. above, the Personal and Advertising Injury Limit is the most we will pay under Coverage B for the sum of all damages because of all "personal and advertising injury" sustained by any one person or organization.

5. Each Occurrence Limit

Subject to 2. or 3. above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of:

- a. Damages under Coverage A; and
- b. Medical expenses under Coverage C because of all "bodily injury" and "property damage" arising out of any one "occurrence".

6. Damage To Premises Rented To You Limit

Subject to 5. above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage A for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, lightning or explosion, while rented to you or temporarily occupied by you with permission of the owner.

In the case of damage by fire, lightning or explosion, the Damage to Premises Rented To You Limit applies to all damage proximately caused by the same event, whether such damage results from fire, lightning or explosion or any combination of these.

7. Medical Expense Limit

Subject to 5. above, the Medical Expense Limit is the most we will pay under Coverage C for all medical expenses because of "bodily injury" sustained by any one person.

8. How Limits Apply To Additional Insureds

If you have agreed in a written contract or written agreement that another person or organization be added as an additional insured on your policy, the most we will pay on behalf of such additional insured is the lesser of:

- a. The limits of insurance specified in the written contract or written agreement; or
- b. The Limits of Insurance shown in the Declarations.

Such amount shall be a part of and not in addition to Limits of Insurance shown in the Declarations and described in this Section.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS

1. Bankruptcy

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

2. Duties In The Event Of Occurrence, Offense, Claim Or Suit

a. Notice Of Occurrence Or Offense

You or any additional insured must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:

- (1) How, when and where the "occurrence" or offense took place;
- (2) The names and addresses of any injured persons and witnesses; and
- (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.

b. Notice Of Claim

If a claim is made or "suit" is brought against any insured, you or any additional insured must:

- (1) Immediately record the specifics of the claim or "suit" and the date received; and
- (2) Notify us as soon as practicable.

You or any additional insured must see to it that we receive written notice of the claim or "suit" as soon as practicable.

c. Assistance And Cooperation Of The Insured

You and any other involved insured must:

- (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";
- (2) Authorize us to obtain records and other information;
- (3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and
- (4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.

d. Obligations At The Insureds Own Cost

No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

e. Additional Insureds Other Insurance

If we cover a claim or "suit" under this Coverage Part that may also be covered by other insurance available to an additional insured, such additional insured must submit such claim or "suit" to the other insurer for defense and indemnity.

However, this provision does not apply to the extent that you have agreed in a written contract or written agreement that this insurance is primary and non-contributory with the additional insured's own insurance.

f. Knowledge Of An Occurrence, Offense, Claim Or Suit

Paragraphs a. and b. apply to you or to any additional insured only when such "occurrence", offense, claim or "suit" is known to:

- (1) You or any additional insured that is an individual;
- (2) Any partner, if you or the additional insured is a partnership;

- (3) Any manager, if you or the additional Insured is a limited liability company;
- (4) Any "executive officer" or Insurance manager, if you or the additional Insured is a corporation;
- (5) Any trustee, if you or the additional Insured is a trust; or
- (6) Any elected or appointed official, if you or the additional Insured is a political subdivision or public entity.

This duty applies separately to you and any additional Insured.

3. Legal Action Against Us

No person or organization has a right under this Coverage Part:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an Insured; or
- b. To sue us on this Coverage Part unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an Insured; but we will not be liable for damages that are not payable under the terms of this Coverage Part or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the Insured and the claimant or the claimant's legal representative.

4. Other Insurance

If other valid and collectible insurance is available to the Insured for a loss we cover under Coverages A or B of this Coverage Part, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when b. below applies. If other Insurance is also primary, we will share with all that other insurance by the method described in c. below.

b. Excess Insurance

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis:

(1) Your Work

That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";

(2) Premises Rented To You

That is fire, lightning or explosion insurance for premises rented to you or temporarily occupied by you with permission of the owner;

(3) Tenant Liability

That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner;

(4) Aircraft, Auto Or Watercraft

If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of Section I - Coverage A - Bodily Injury And Property Damage Liability;

(5) Property Damage To Borrowed Equipment Or Use Of Elevators

If the loss arises out of "property damage" to borrowed equipment or the use of elevators to the extent not subject to Exclusion j. of Section I - Coverage A - Bodily Injury And Property Damage Liability;

(6) When You Are Added As An Additional Insured To Other Insurance

Any other Insurance available to you covering liability for damages arising out of the premises or operations, or products and completed operations, for which you have been added as an additional Insured by that insurance; or

(7) When You Add Others As An Additional Insured To This Insurance

Any other Insurance available to an additional Insured.

However, the following provisions apply to other insurance available to any person or organization who is an additional Insured under this coverage part.

(a) Primary Insurance When Required By Contract

This insurance is primary if you have agreed in a written contract or written agreement that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in c. below.

(b) Primary And Non-Contributory To Other Insurance When Required By Contract

If you have agreed in a written contract, written agreement, or permit that this insurance is primary and non-contributory with the additional Insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

Paragraphs (a) and (b) do not apply to other insurance to which the additional insured has been added as an additional insured.

When this insurance is excess, we will have no duty under Coverages A or B to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

c. Method Of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

5. Premium Audit

- a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.
- b. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit and retrospective premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.
- c. The first Named Insured must keep records of the information we need for premium

computation, and send us copies at such times as we may request.

6. Representations

a. When You Accept This Policy

By accepting this policy, you agree:

- (1) The statements in the Declarations are accurate and complete;
- (2) Those statements are based upon representations you made to us; and
- (3) We have issued this policy in reliance upon your representations.

b. Unintentional Failure To Disclose Hazards

If unintentionally you should fail to disclose all hazards relating to the conduct of your business that exist at the inception date of this Coverage Part, we shall not deny coverage under this Coverage Part because of such failure.

7. Separation Of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom claim is made or "suit" is brought.

8. Transfer Of Rights Of Recovery Against Others To Us

a. Transfer Of Rights Of Recovery

If the insured has rights to recover all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

b. Waiver Of Rights Of Recovery (Waiver Of Subrogation)

If the insured has waived any rights of recovery against any person or organization for all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, we also waive that right, provided the insured waived their rights of recovery against such person or organization in a contract, agreement or permit that was executed prior to the injury or damage.

9. When We Do Not Renew

If we decide not to renew this Coverage Part, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

COMMERCIAL AUTOMOBILE BROAD FORM ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

To the extent that the provisions of this endorsement provide broader benefits to the "Insured" than other provisions of the Coverage Form, the provisions of this endorsement apply.

1. BROAD FORM INSURED

A. Subsidiaries and Newly Acquired or Formed Organizations

The Named Insured shown in the Declarations is amended to include:

- (1) Any legal business entity other than a partnership or joint venture, formed as a subsidiary in which you have an ownership interest of more than 50% on the effective date of the Coverage Form. However, the Named Insured does not include any subsidiary that is an "Insured" under any other automobile policy or would be an "insured" under such a policy but for its termination or the exhaustion of its Limit of Insurance.
- (2) Any organization that is acquired or formed by you and over which you maintain majority ownership. However, the Named Insured does not include any newly formed or acquired organization:
 - (a) That is a partnership or joint venture,
 - (b) That is an "insured" under any other policy,
 - (c) That has exhausted its Limit of Insurance under any other policy, or
 - (d) 180 days or more after its acquisition or formation by you, unless you have given us notice of the acquisition or formation.

Coverage does not apply to "bodily injury" or "property damage" that results from an "accident" that occurred before you formed or acquired the organization.

B. Employees as Insureds

Paragraph A.1. - WHO IS AN INSURED - of SECTION II - LIABILITY COVERAGE is amended to add:

- d. Any "employee" of yours while using a covered "auto" you don't own, hire or borrow in your business or your personal affairs.

C. Lessors as Insureds

Paragraph A.1. - WHO IS AN INSURED - of Section II - Liability Coverage is amended to add:

- e. The lessor of a covered "auto" while the "auto" is leased to you under a written agreement if:
 - (1) The agreement requires you to provide direct primary insurance for the lessor and
 - (2) The "auto" is leased without a driver.

Such a leased "auto" will be considered a covered "auto" you own and not a covered "auto" you hire.

D. Additional Insured if Required by Contract

(1) Paragraph A.1. - WHO IS AN INSURED - of Section II - Liability Coverage is amended to add:

- f. When you have agreed, in a written contract or written agreement, that a person or organization be added as an additional insured on your business auto policy, such person or organization is an "insured", but only to the extent such person or organization is liable for "bodily injury" or "property damage" caused by the conduct of an "insured" under paragraphs a. or b. of Who Is An Insured with regard to the ownership, maintenance or use of a covered "auto."

The Insurance afforded to any such additional Insured applies only if the "bodily injury" or "property damage" occurs:

- (1) During the policy period, and
- (2) Subsequent to the execution of such written contract, and
- (3) Prior to the expiration of the period of time that the written contract requires such insurance be provided to the additional insured.

(2) How Limits Apply

If you have agreed in a written contract or written agreement that another person or organization be added as an additional Insured on your policy, the most we will pay on behalf of such additional insured is the lesser of:

- (a) The limits of insurance specified in the written contract or written agreement; or
- (b) The Limits of Insurance shown in the Declarations.

Such amount shall be a part of and not in addition to Limits of Insurance shown in the Declarations and described in this Section.

(3) Additional Insureds Other Insurance

If we cover a claim or "suit" under this Coverage Part that may also be covered by other insurance available to an additional insured, such additional insured must submit such claim or "suit" to the other insurer for defense and indemnity.

However, this provision does not apply to the extent that you have agreed in a written contract or written agreement that this insurance is primary and non-contributory with the additional insured's own insurance.

(4) Duties In The Event Of Accident, Claim, Suit or Loss

If you have agreed in a written contract or written agreement that another person or organization be added as an additional insured on your policy, the additional insured shall be required to comply with the provisions in LOSS CONDITIONS 2. - DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS - OF SECTION IV - BUSINESS AUTO CONDITIONS, in the same manner as the Named Insured.

E. Primary and Non-Contributory If Required by Contract

Only with respect to Insurance provided to an additional insured in 1.D. - Additional Insured If Required by Contract, the following provisions apply:

(3) Primary Insurance When Required By Contract

This insurance is primary if you have agreed in a written contract or written agreement that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in Other Insurance 5.d.

(4) Primary And Non-Contributory To Other Insurance When Required By Contract

If you have agreed in a written contract or written agreement that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

Paragraphs (3) and (4) do not apply to other insurance to which the additional insured has been added as an additional insured.

When this insurance is excess, we will have no duty to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, by the method described in Other Insurance 5.d.

2. AUTOS RENTED BY EMPLOYEES

Any "auto" hired or rented by your "employee" on your behalf and at your direction will be considered an "auto" you hire.

The OTHER INSURANCE Condition is amended by adding the following:



City of Huntington Beach

Business License

714 536-5267 FAX 714 536-5934

P.O. Box 190

Huntington Beach, CA 92648

Dahle Bulosan
Chief Financial Officer

SOUNDSKILZ
39444 CALLE PORTILLO
TEMECULA CA 92592

Dear Business Owner:

Thank you for your payment. Attached is your City of Huntington Beach Business License. Please note that approximately one month prior to the license expiration date, you will be mailed a renewal notice for the coming year. If for any reason your renewal notice does not arrive, you are still responsible to renew and pay your business license amount prior to the expiration date. You will incur penalties if this payment is not received by the expiration date.

Please post the business license in public view. If you do not transact business from a fixed location within the city, you must carry this license with you at all times. Your business vehicle should also carry this license, and the license plate number of the vehicle(s), if applicable, should match the one on the business license. Please notify Business License if there are any changes of ownership, address, business name, business vehicle, or type of business conducted. Additionally, please notify the city if you discontinue your business.

If your business is operated in a commercial, retail, or industrial location, you will need to contact the Planning and Building Department regarding the requirement for a Certificate of Occupancy. For additional questions or information on this matter call 714-536-5271. The Planning and Building Department is located on the 3rd floor of City Hall.

There are many resources available to our licensed business people. We have listed a few that might be of interest and assistance to you.

City of Huntington Beach Economic Development Department - 714-536-5582
Huntington Beach Chamber of Commerce - 714-536-8888
Huntington Beach SCORE (Service Corps of Retired Executives) - 714-550-7369
Fictitious Business Name Information - 714-834-2889
State Board of Equalization (seller's permit information) - 949-440-3473

If you have any questions, please call a Business License representative at 714-536-5267.

City Of Huntington Beach **Business License**

Business Name / Service Address
SOUNDSKILZ

License Number A308885

License Type
Professional / Other Services

Effective Date 11/01/2020

Expiration Date 10/31/2021

Owner / Corporation
SOUNDSKILZ INC



Amount Paid \$126.70

THIS LICENSE IS ONLY FOR THE BUSINESS AND TYPE SHOWN. IT IS FOR THE PERSON TO WHOM ISSUED AND IS NON-TRANSFERABLE. RENEWAL IS DUE ON OR BEFORE THE EXPIRATION DATE.

SIC 8999

POST IN PUBLIC VIEW