

**PROMOTIONAL AGREEMENT BETWEEN THE CITY OF
HUNTINGTON BEACH AND SOUTHERN CALIFORNIA TOYOTA
DEALERS ADVERTISING ASSOCIATION.**

THIS AGREEMENT, made and entered into this _____ day of _____, 20__ BY AND BETWEEN the CITY OF HUNTINGTON BEACH, a municipal corporation, hereinafter referred to as “**City**”, TOYOTA MOTOR SALES, U.S.A., INC., whose principal place of business is 2 Banting, Irvine, California 92618 and SOUTHERN CALIFORNIA TOYOTA DEALERS ADVERTISING ASSOCIATION, whose principal place of business is 2629 Townsgate Road, Suite 235, Westlake Village, California 91361 hereinafter referred to as “**Sponsor**.”

WITNESSETH:

WHEREAS, City is a municipal corporation and charter City duly organized and existing under and by virtue of the Constitution and the laws of the State of California; and

WHEREAS, City desires to recognize Sponsor’s product as the “Official Marine Safety Vehicle of the City of Huntington Beach”; and

WHEREAS, Sponsor desires to purchase the exclusive rights to advertise, sponsor events and promote its products as the Official Marine Safety Vehicle of the City of Huntington Beach.

IT IS THEREFORE agreed by and between City and Sponsor as follows:

1. **Definitions:** As used herein, the terms set forth below shall be defined as follows:
 - A. “**Agreement Year**” shall mean the 12-month period commencing on the date that this Agreement is executed by the City Council of the City of Huntington Beach, which date shall become the effective date of this Agreement, and each following 12-month period thereafter throughout the term of this Agreement.
 - B. “**Business Day**” shall mean a day of the week falling on Monday, Tuesday, Wednesday, Thursday or Friday.
 - C. “**Marine Safety Chief**” shall mean the Marine Safety Division Chief of the City of Huntington Beach Marine Safety Operation of the Fire Department.
 - D. “**Department**” shall mean the Fire Department of the City of Huntington Beach.
 - E. “**Director**” shall mean the Chief of the Fire Department of the City of Huntington Beach.
 - F. “**Lifeguards**” shall mean the City of Huntington Beach Marine Safety Operation.

- G. **“Lifeguard Tower(s)”** shall mean the towers on the City of Huntington Beach Beaches, which serve as shelter and observation stations for the Lifeguards.
- H. **“Logo”** shall mean a co-branded logo which may be developed by the parties to this Agreement and mutually agreed upon in writing by parties to this Agreement, but shall not include the official insignia of the City of Huntington Beach.
- I. **“City of Huntington Beach Beaches”** shall mean those beaches over which the Department has jurisdictional or operational authority.
- J. **“Lifeguard Motor Vehicles”** or **“Vehicles”** shall mean the marketing category to which this Agreement shall apply.
- K. **“Name Identification Space”** shall mean that space on designated City-owned or operated real and personal property, specifically on the eighteen (18) Toyota vehicles hereinafter described to be acquired by City, and may, if Sponsor exercises options provided for in **Section 2** of this Agreement, include space on Lifeguard Towers.
- L. **“Premium(s)”** shall mean any promotional article(s) used for the purpose of increasing the sales of particular products, including those of Sponsor.
- M. **“Product(s)”** shall mean any motor vehicle model(s) that are produced by Sponsor.
- N. **“Sponsor’s Special Event(s)”** shall mean event(s) exclusively conducted by Sponsor that promote its Product for which Sponsor receives no sponsorship funding from other commercial Sponsors.
- O. **“Sponsor’s Special Event Permit(s)”** shall mean permit(s) exclusively issued to Sponsor by the Department pursuant to the Huntington Beach Municipal Code for events that are conducted by Sponsor that promote its Product for which Sponsor receives no sponsorship funding from other commercial sponsors.
- P. **“Trademark(s)”** shall mean any word(s), name(s), symbol(s) or any combination thereof which, when used by a party to this Agreement, would distinguish the Product made or sold by it or services rendered by it from those goods made or sold or services rendered by others.
- Q. **“Vehicles”** shall mean the twenty-four (24) Toyota vehicles described in Section 4 below as to which the rights of possession and use are being granted hereunder by Sponsor to City for use by the beach lifeguards and beach operations.

2. Grant of Sponsorship Rights

Subject to the other terms of this Agreement and upon execution of this Agreement, City shall grant to Sponsor the exclusive right within the category of "Lifeguard Motor Vehicles" to advertise on that property defined herein as the Vehicles as well as the ancillary rights listed below which are adjunctive but necessary incidents to the right to purchase advertising space on City real and personal property.

A. City grants Sponsor exclusive signage rights in the category of "Lifeguard Motor Vehicles" (car/trucks) on beaches owned by the City of Huntington Beach. However, City does not have the authority to grant this right on beaches that are owned or operated by the State of California.

B. City grants to Sponsor the right to generate publicity with respect to its status as the "Official Marine Safety Vehicle of the City of Huntington Beach" via press materials and/or other forms of communication to be distributed to the media for non-editorial purposes ("Publicity").

C. City grants Sponsor the right to use during the period of this Agreement, the Logos and its status as Sponsor under this Agreement in connection with the advertising and promotion of its products. Sponsor understands that the rights granted herein with respect to the Logo is limited to use in connection with promotion of its Products and do not extend to any other products, goods or services.

D. City grants Sponsor the exclusive right, within the category of "Lifeguard Motor Vehicles" (car/trucks), to use the following Trademarks, which have been used and adopted by the City:

Official Car/Truck Sponsor of Huntington Beach City Beaches
Official Car/Truck Sponsor of Huntington Beach City Lifeguards
Official Car/Truck Sponsor of City of Huntington Beach Lifeguards
Official Car/Truck Sponsor of City of Huntington Beach Rescue Lifeguards
Official Car/Truck Sponsor of City of Huntington Beach Lifeguards

E. City grants Sponsor the exclusive right to be known as the "Official Marine Safety Vehicle of the City of Huntington Beach", and to be known as the official Sponsor of the City of Huntington Beach within the "Lifeguard Motor Vehicles" category. The right to be so designated with regard to non-City sponsored events is contingent on City having the legal right to grant such an exclusive right. If City can legally grant such exclusive right to Sponsor, it shall do so without any further consideration being paid by Sponsor. All product exclusivity for promotional activity is granted pursuant to normal policies, procedures and government regulations. City shall use its best efforts to obtain necessary Trademarks and permission to facilitate above usage. If City does not obtain necessary Trademarks to facilitate above usage for any reason including its status as a government entity, Sponsor has the right to register/use the Trademarks listed above and enjoy all rights pursuant to this Agreement pertaining thereto throughout the period of

this Agreement and any extension thereof. Upon termination, and in the absence of the extension of this Agreement, Sponsor shall transfer all rights, entitlements and ownership of said Trademarks to the City.

F. City grants Sponsor the right to display its Trademark on signage at the Sponsor's Special Events, which display will be subject to all federal, state and local laws including all land use and environmental regulations. Subject to written approval by the Director, the Sponsor must indicate the time, place, quantity, color, size, nature of material to be used as signs, proximity to other structures, and length of time such signage is to be displayed for every beach event.

G. City grants Sponsor the right to fifteen (15) Department-approved events in each Agreement year, under the City's Special Event permit process without having to pay the permit fee. The approval of Sponsor events without paying a permit fee is subject to the sole and absolute discretion of the Department. Any other costs or fees associated with these events are the responsibility of Sponsor. A Special Event Permit will be issued to Sponsor so long as Sponsor applies for the permit thirty (30) days in advance of each such scheduled event and so long as all requirements of the permit have been met and the proposed Sponsor Special Event does not conflict with a previously scheduled event. This right does not apply to beaches owned or operated by the State of California. These Sponsor events may include Toyota Motor Sales team-building activities or local grassroots marketing. Sponsor events shall not include sport events such as surf contest, volley ball tournaments or other such events. Sponsor may conduct grassroots marketing at Pier Plaza to engage consumers with Toyota trucks and connect them back to local dealership on the following seven weekends:

- Memorial Day Weekend
- Labor Day Weekend
- Thanksgiving Weekend
- One Weekend in June
- One Weekend in July
- One Weekend in August
- Spring Break Weekend

Sponsor may also display on the 4th of July and during the U.S. Open of Surfing.

This promotional activity may include, but not be limited to, a truck display with product specialists, giveaways, Tundra simulator, Ride and Drive Day, etc. The specific area of Pier Plaza to be used shall be mutually agreed upon by Sponsor and City; however, City retains the sole and absolute discretion to deny event locations on Pier Plaza if the City determines that Sponsor's events impact activities on Pier Plaza.

H. Sponsor may have signage, consisting of the Sponsor's emblem and sponsorship phrase, on Lifeguard Towers 3 and 4.

I. Subject to all City parade rules and regulations, at Sponsor's request, a lifeguard vehicle may be part of the 4th of July Parade at no cost to Sponsor. Sponsor's representatives may ride in vehicle.

J. Sponsor may have signage that is mutually agreed to, on Pier Plaza designating Toyota as the "Official Lifeguard Vehicle of Huntington Beach".

K. Subject to the sole discretion of the Director, City grants Sponsor the right to display Sponsor's signage, vehicles and/or Sponsor's logos at City-Sponsored beach activities, unless otherwise provided for by this Agreement. In addition, Sponsor may put a vehicle on display across from Lifeguard Tower Zero on the pier. The Display Vehicles shall be selected solely by Sponsor. Vehicle Displays may include signage and other materials as deemed appropriate by Sponsor and approved by the City. Neither the City nor any of their respective employees, representatives, contractors or agents shall drive or otherwise operate any of the Display Vehicles. Notwithstanding the forgoing, City employees, representatives, contractors or agents may drive a Display Vehicle if emergency conditions require that the Display Vehicle be moved. Sponsor shall bear all risk of loss or damage to the Vehicle Displays (except for damage or loss or personal injury arising out of, related to or connected with any negligence or willful misconduct of the City or its respective representatives, employees, and agents). Sponsor shall have the right to distribute mutually agreeable products and/or collateral advertising at such displays. Locations shall be determined by mutual agreement of the Parties. All collateral and items distributed shall be subject to the City's approval. Sponsor shall be solely responsible for all set-up, clean-up, distributed items and staffing of any displays.

L. City will add a photo of Sponsor's Lifeguard Vehicle to the "Beach Information" page of the City website and to the "Marine Safety" page on the Fire Department home page. City will increase the font size for Toyota link and use a new vehicle photograph.

M. City will add a message to its surf condition phone line that Toyota is the official sponsor of City Lifeguard Vehicles.

N. City will provide acknowledgement of Toyota sponsorship of City Lifeguard Vehicles on local cable television Channel 3.

O. City will add a public service announcement with Toyota sponsor branding to the freeway digital display, as set forth in Exhibit A attached hereto and incorporated by reference.

P. Sponsor may produce, at their sole cost and expense, two (2) beach safety public service announcements or two (2) commercial shoots for use by the Southern California Toyota Dealers Association per year.

3. Sponsor Obligations

A. Sponsor agrees that it will not cause or permit the Logos or Trademarks developed pursuant to this Agreement to be used or exploited in any manner contrary to public morals, or which violates prevailing standards of good taste, or reflects unfavorably upon the good name, good will, reputation and image, in whole or in part, of City and/or Department.

B. Sponsor agrees to submit to Director and Marine Safety Chief for their prior written approval which may be granted at the sole and absolute discretion of the Director, all advertising, promotional T.V. and radio commercials or any other display materials to be used by Sponsor in connection with the Logos or Trademarks of City. Such material shall be submitted not less than thirty (30) Business Days prior to its proposed release to the public.

C. Sponsor agrees to submit for prior written approval to Director and Marine Safety Chief which may be granted at the sole and absolute discretion of the Director, the signage design, size, nature of material, and desired location on the Vehicles for Sponsor's Name Identification Space.

D. Sponsor agrees not to use any Premium in connection with the rights herein granted unless prior written approval of such use has been obtained from Director and Marine Safety Chief which may be granted at the sole and absolute discretion of the Director.

E. Sponsor agrees not to manufacture any Premium using City Logos unless prior written approval of such use has been obtained from Director and Marine Safety Chief which may be granted at the sole and absolute discretion of the Director.

F. If Sponsor desires to sell or distribute for sale any Premium bearing the Logo(s) and/or Trademark(s) of City, a separate licensing agreement shall be negotiated between Sponsor and City.

4. Consideration

A. During the Term of this Agreement, Sponsor will make available to the City Thirteen (13) new Tacoma 4x4 V6 Double Cab, Eight (8) new Tundra 4x4 5.7L V8 Crew Cab Tundra 5.5 ft bed length, Two (2) new Tacoma 4.2 V6 Double Cab, and One (1) RAV4 Hybrid AWD XLE (collectively, "the Vehicles") to be used solely by the City in its lifeguard and beach operations on the beach, pier, Pier Plaza and associated beach facilities and as otherwise allowed under this Agreement. The Vehicles shall be selected solely by Sponsor. Both the Vehicles' models and the numbers of each particular model may be changed at any time upon the mutual written consent of both Sponsor and Director. Each of the Vehicles will be provided via a lease (the "Lease") through Toyota's affiliate Toyota Motor Credit Corporation, ("TMCC"). Sponsor shall pay all

lease payments on behalf of the City. The City shall pick up the Vehicles at the arranged Toyota dealership and new vehicle orientation shall be provided at the dealership.

B. Except as otherwise provided in this Agreement, The City shall be solely responsible for all operating costs associated with the use and maintenance of the Vehicles. The City is self-insured and will provide Sponsor and TMCC with a letter agreeing to provide full insurance coverage for all the Vehicles and any replacement Vehicles during the term of this Agreement in the amounts listed as follows:

| | |
|---------------------------|----------------------------|
| Bodily Injury Liability | \$1,000,000 per occurrence |
| Property Damage Liability | \$ 500,000 per occurrence |
| Medical Payments | \$ 2,000 per occurrence |
| Uninsured Motorists | \$ 15,000 per occurrence |
| | \$ 30,000 per occurrence |
| Comprehensive Collision | Value of Vehicles |

The above will be satisfied by issuance of a Certificate of Self-Insurance for one million dollars (\$1,000,000) combined single limit coverage.

Sponsor may terminate this Agreement effective immediately upon written notice to City, in the event City fails to provide or maintain the insurance stated immediately above.

C. The Vehicles will be delivered only with the express written warranties specified in the applicable owner's guide and any express written warranties specified therein. Upon the termination or expiration of the applicable Motor Vehicle Lease Agreement or this Agreement and the City agrees to cooperate with Sponsor and TMCC to effectuate the return of the Vehicles.

D. The City shall license and register each of the Vehicles and shall pay all required registration and license fees. Sponsor will cooperate with the City by providing any requested documentation to assist the City in filing required documentation with the California State Department of Motor Vehicles as necessary to obtain E-plates.

E. The Vehicles shall be operated by the City and its respective employees, in accordance with each Motor Vehicle Lease Agreement and this Agreement. Notwithstanding anything to the contrary in the Motor Vehicle Lease Agreement, in the event there is any conflict between the terms of the Motor Vehicle Lease Agreement and the terms of this Agreement, the terms of this Agreement shall be controlling as between Sponsor and the City.

F. The City shall co-brand the Vehicles with the Logo and an acknowledgment of the Vehicles as the "Official Marine Safety Vehicle of the City of Huntington Beach" and/or any of the designated names set forth in **Section 2.D** of this Agreement. Decals must be pre-approved by Sponsor. The City shall provide photographs of each Vehicle to Sponsor once a Vehicle is decaled. The City shall pay for decal production and removal.

G. The City shall complete a **Automobile Loss/Damage Report** (in the form of **Exhibit B**, or other form as may be designated by Sponsor from time to time) immediately after any collision, upset, occurrences, accidents involving any Vehicle of which The City is aware. The City shall be responsible for any collisions, upsets, occurrences, accidents, liabilities, costs and/or damage sustained by the Vehicles (and/or arising from any breach of the terms hereof and/or of the Motor Vehicle Lease Agreements). The City shall immediately contact Sponsor regarding any and all collisions, upsets, occurrences, accidents, liabilities, costs and/or damage sustained by the Vehicles (and/or any other third party). The City shall communicate to its employees that they must immediately report all collisions, upsets, occurrences, liabilities, costs and/or accidents to the City.

H. The City shall pay for the cost of regularly scheduled service for the Vehicles. The City shall maintain documentation of all services performed pursuant to the Vehicle Maintenance Schedule. Notwithstanding the foregoing, Sponsor will pay for all warranty repairs in accordance with the New Vehicle Limited Warranty as stated in the applicable owner's manual. The City shall submit invoices to Sponsor for reimbursement of such warranty repairs. The City shall pay for damage to the Vehicles beyond what is considered normal wear and tear, such as body repairs or damage caused by misuse, neglect or incidents typically covered by automobile comprehensive or collision damage insurance policies, and/or arising from a breach of this Agreement or the applicable Motor Vehicle Lease Agreement.

I. The City will undertake, at its cost, all responsibilities of day-to-day maintenance required for the Vehicles so that each looks its best, including washing and vacuuming the Vehicles and detailing and steam cleaning the interior of the Vehicles as needed. The City shall be responsible for the ordinary operating expenses associated with the Vehicles such as gas, oil, grease, tire repair and replacement and other incidentals.

J. Sponsor agrees that City, in its discretion, may outfit vehicles with safety equipment, including but not limited to radios and light bars. However, City shall not be responsible for any cost to repair vehicles modified to suit City Lifeguard needs and/or "wear and tear" on any vehicles described in this agreement. The City is responsible for the installation and removal of all Vehicle accessories, such as radios and light bars, racks, additional roof accessories, and tinting of windows of the Vehicles, that were not in or attached to the Vehicles at delivery (collectively, "**Accessories**"). All such installations must be removed prior to return of the Vehicles, all of the foregoing at the City's sole cost. All such installations must (a) be in compliance with all applicable laws, rules and regulations, (b) not in any way impact, cover and/or otherwise impair the ability to view warnings affixed to the Vehicle (e.g., the warnings regarding the airbag system on the visor), or (c) not impact the safety or operational features of the Vehicle (i.e., not adversely impact visibility while operating the Vehicle, not impact in any way the compliance of the Vehicle with the Motor Vehicle Safety Act or other applicable Federal motor vehicle safety standards). The City shall be solely responsible and liable for any Claims arising from installation of such Accessories.

K. The Parties agree that Toyota Entities will replace vehicles based on the "Major Model Redesign Schedule," as determined by Toyota Entities and consisting of a complete internal and external change (i.e. styling, engine, safety, technology, etc.) with a maximum model cycle of five (5) years. The replacement Vehicles shall be delivered to the City within sixty (60) days after notification of new replacement vehicles based on the "Major Model Redesign Schedule", if Sponsor chooses to extend this Agreement according to the provision set forth in Section 6 below. In exchange, City shall deliver to Sponsor, forty-five (45) days after receipt of the replacement Vehicles, to the designated Toyota dealer locations all Vehicles then currently in use within the maximum model cycle of five (5) years and not purchased by City, based on the "Major Model Redesign Schedule."

L. For all Vehicles purchased by City, Sponsor will offer to City the right to purchase "Extended Service Contracts" routinely available for such vehicles through authorized Toyota dealers.

M. At the end of the term of this Agreement, City will return the Vehicles in the same condition as delivered, reasonable wear and tear excepted, to the designated Toyota dealer locations within forty-five (45) days after the termination of the Agreement.

5. Buy Out Option

A. At the termination of this Agreement, and at the termination of this Agreement's optional extension periods (if exercised), City shall have the option to purchase any or all of the Vehicles due to be returned to Sponsor as outlined in Section 4 and pursuant to the applicable Motor Vehicle Lease Agreements at prices to be provided by Sponsor and/or TMCC at lease inception, but in no event later than at least one hundred and eighty (180) days prior to the termination of this Agreement and any optional extension periods.

B. If City elects to exercise such buy out options, it must notify Sponsor in writing at least thirty (30) days prior to the termination of this Agreement, and thirty (30) days prior to the termination of this Agreement's optional extension periods, if exercised.

6. Term and Extension of Rights

This Agreement shall be deemed to commence on the date of the Huntington Beach City Council's execution and shall continue for two (2) Agreement Years, subject to the possible extensions of the Agreement and to the provisions concerning termination set forth in Section 20 below. Subject to mutual consent in writing between Director and Sponsor, this Agreement may be extended for two (2) additional two-year periods on the same terms and conditions specified in this Agreement. Sponsor must inform Director in writing at least one hundred and eighty (180) days prior to the termination of both this Agreement and, if exercised, the optional extension periods, if Sponsor will not request an extension. If an extension is requested, Director shall respond to Sponsor in writing to advise whether he consents to such extension within thirty (30) days of receiving the request.

7. Operation Expansion or Reduction

Sponsor and City agree that in the event that City's jurisdictional or operational authority of City of Huntington Beach Beaches is expanded or reduced, thereby affecting the extent of Sponsor's ability to advertise its Product, both parties will in good faith promptly renegotiate this Agreement to take into account the increase or decrease in the size of operation. In renegotiation of the Agreement, the parties shall attempt to reasonably adjust the number of Vehicles to reflect the increase or decrease in the square mileage of beach areas remaining under City's jurisdiction or operational authority and portion of the Agreement Year affected.

If the reduction of City's control exceeds fifty (50%) percent of the area of City of Huntington Beach Beaches under its control as of the effective date of this Agreement, Sponsor may terminate this Agreement upon ninety (90) day written notice to City and without incurring any further liability to City beyond the liability incurred up to and including the ninetieth (90th) day of said ninety (90) day notice period.

8. Indemnification

A. Sponsor agrees to defend, indemnify and hold harmless City, its respective City Council, the Fire Department, and its officials, agents, employees, successors, and assigns from and against any and all claims, demands, obligations, causes of action and lawsuits and all damages, liabilities, fines, judgments, costs (including, without limitation, settlement costs), and expenses associated therewith (including, without limitation, the payment of reasonable attorney fees and disbursements), arising out of, related to or resulting from Sponsor's marketing and promotion of its designation and/or status as the "Official Marine Safety Vehicle of the City of Huntington Beach" (or other such designation as allowed in Section 2), including but not limited to Sponsor's activities in connection with Sponsor's Special Event Permits, Premium distributions, wrongful use of Logo and Trademark(s), and all advertisement, promotional and display material, as well as Sponsor's rights granted in Sections 2 and 3 above. Sponsor's indemnification shall extend to any claim of false or deceptive advertising and to the failure of Sponsor or those acting under it, to comply with the terms and conditions of this Agreement. City shall be reimbursed by Sponsor for all costs and attorneys' fees incurred by City in enforcing this obligation. Sponsor will conduct all defense at its sole cost and expense and the City shall approve selection of Sponsor'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 Sponsor.

All new vehicle warranties shall remain in effect and Sponsor shall indemnify City for all damages arising from defect in the Vehicles as manufactured.

Sponsor shall defend, indemnify and hold harmless the City, as well as its respective City Council, the Fire Department, and its officials, agents, employees, successors, and assigns against all liability for illegal competition or trade practices, common-law and/or

statutory, which are based on the rights granted by City pursuant to the terms of this Agreement.

B. City agrees to defend, indemnify and hold harmless the Sponsor, its divisions and subsidiaries and their respective officers, directors, agents and employees, successors, and assigns from and against any and all claims, demands, obligations, causes of action and lawsuits and all damages, liabilities, fines, judgments, costs (including, without limitation, settlement costs), and expenses associated therewith (including, without limitation, the payment of reasonable attorney fees and disbursements), arising out of City's own use or possession of the Vehicles; the services performed or actions taken by City, or those acting under it, in connection with this Agreement, including City's use of the Vehicles in connection with the operation and management of any event or activity, including but not limited to any claims for damage, injury, liability, cost and/or death (including without limitation, attorneys' fees and costs and other Claims) that may occur while driver is operating and/or as a result of such driver operating the Vehicle; City's wrongful use of Logo and Trademark(s) and, the failure of City, or those acting under it, to comply with the terms and conditions of this Agreement.

City will conduct all defense at its sole cost and expense and the Sponsor shall approve selection of City'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 City.

9. Insurance

In addition to the insurance required by **Section 4.B** of this Agreement, the City shall provide and maintain throughout the term of this agreement the following insurance coverages:

A. Commercial general liability insurance with minimum limit of One Million Dollars (\$1,000,000) combined single limit for bodily injury and property damage, including contractual liability, products and completed operations liability;

B. Employer's liability insurance in a minimum amount of One Million Dollars (\$1,000,000) or will otherwise comply with all applicable Workers' Compensation and/or other laws that may accrue in favor of any person employed; and

C. Umbrella liability with a minimum limit of Five million Dollars (\$5,000,000).

The City shall provide Sponsor with proof of the acquisition of all of the above-identified insurance coverage in the form of one or more certificates of insurance upon request and at least five (5) business days prior to the delivery of the Vehicles (and, if reasonably requested by Sponsor, at any other time). The commercial liability, and automobile insurance policies required hereunder shall name Sponsor, its parent, subsidiary and affiliated companies as Additional Insureds and shall specify that the insurance carrier will endeavor to provide Sponsor thirty (30) days written notice prior to any change, cancellation or reduction in such coverage. Sponsor reserves the right to review and must be satisfied with the insurer as well as the types and level

of coverage to be maintained during the Term. All insurance coverages required hereunder shall be procured from insurers with a Best's performance rating of at least A- and with a financial size category of at least Class VII.

10. Sponsor's Marks

The City shall obtain written approval from Sponsor prior to use of any Sponsor logos, service marks, trade names or trademarks owned by Sponsor and/or its affiliates (collectively, the "**Sponsor Marks**") by the City or any of its respective agents, representatives, employees or contractors, except as otherwise specifically required in this Agreement. If Sponsor grants its approval for the City to use the Sponsor Marks pursuant to this Agreement, the Sponsor Marks shall be used only in the exact form, style and type expressly allowed by Sponsor. The Sponsor Marks are and shall remain exclusively the property of Sponsor (and/or its designated affiliates). The City shall not, directly or indirectly, during the Term hereof or at any time thereafter, in any country (a) register or attempt to register, in any manner, any of the Sponsor Marks or (b) challenge the validity of any of the Sponsor Marks. The City recognizes Sponsor's exclusive ownership of the Sponsor Marks. The City shall not use the Sponsor Marks in any way which would tend to aid any competitor of Sponsor, or in any other manner that would bring the same (or its products) into public disrepute, contempt, scorn or ridicule or tend to shock, insult or offend the community, public morals or decency. The City shall not use the Sponsor Marks to incur any obligation or indebtedness on behalf of Sponsor, or to hold itself out as being or representing Sponsor or any of its affiliates. The obligations of The City under this paragraph will survive expiration or termination of this Agreement.

11. Default; Remedies

A. The following events shall constitute an Event of Default ("Event of Default") under this Agreement regardless of whether any such event shall be voluntary or involuntary or shall result from the operation of applicable laws, rules or regulations or shall be pursuant to or in compliance with any judgment, decree or order of any court of competent jurisdiction:

- (1) City shall fail to cause to be carried and maintained the insurance required under **Sections 4.B and 9** hereof;
- (2) Either party shall make any material misrepresentation or shall breach any warranty made herein;
- (3) Either party shall commence a voluntary case or other proceeding seeking liquidation, reorganization or other relief under any bankruptcy, insolvency or similar law, or shall make a general assignment for the benefit of creditors, or shall have an involuntary case or other proceeding instituted against it seeking similar relief;
- (4) Either party shall otherwise fail to perform or observe any other covenant or condition set forth herein and such failure shall continue unremedied for a

period of thirty (30) days after the receipt of written notice thereof from the nondefaulting party; or

(5) Either party should commit an act, which brings its name into disrepute, or otherwise substantially diminishes the value of the Sponsorship association for the other party.

B. Upon the occurrence of an Event of Default, and at any time thereafter so long as the same shall be continuing, the nondefaulting party may declare, at its option, this Agreement to be in default and: (1) may immediately terminate this Agreement without any liability whatsoever; (2) may seek enforcement by appropriate court action of the terms hereof and recover damages for the breach hereof; (3) may exercise any other right or remedy available to it under law or in equity; or (4) may seek any permitted combination of such remedies. No remedy is intended to be exclusive, but each shall be cumulative and the exercise of any such remedy shall not preclude the simultaneous or later exercise of any other remedy.

12. Waiver

Failure or inability of either party to enforce any right hereunder shall not waive or modify any right to enforce said right in the future.

13. Notices

All notices and statements to be given hereunder shall be given at the respective addresses of the parties as set forth below, unless notification of a change of address is given in writing. Any notice shall be sent by registered or certified mail or by a nationally recognized courier service and shall be effective upon receipt. Sponsor shall maintain an address within California as the address to which such notice shall be given. Sponsor shall designate an agent with a California address to accept service of process. The addresses for notice and agents for service of process are:

| | |
|------|---|
| City | Fire Department 2000 Main Street Huntington Beach CA 92648 Attn: Scott Haberle, Fire Chief |
|------|---|

| | |
|----------|--|
| Sponsor: | Toyota Motor Sales, U.S.A., Inc. 2 Banting Irvine, CA 92618 Attn: Diana Davis |
|----------|--|

Southern California Toyota Dealers Advertising Association.
2629 Townsgate Road, Suite 235
Westlake Village, CA 91361
Attn: Jennifer Lin

Agent for Service of Process:

Davis Elen Advertising, Inc.
865 South Figueroa Street
Los Angeles, CA 90017
Attn: Jennifer Lin

14. Assignment

Neither party shall not have the right to assign or delegate any of its rights or obligations hereunder to an unrelated third party without the prior written consent of the other party.

15. Compliance with Law, Rules and Regulations

Both parties shall comply with all applicable federal and state laws and regulations, as well as all municipal and City ordinances, rules and regulations, including but not limited to those relating to the Department.

16. Severability of Provisions

Should any individual provision of this Agreement be declared void, the validity of the remainder of this Agreement will not be affected and will remain in full force and effect.

17. Independence

The parties shall at all times act independently. Nothing contained in this Agreement shall be construed to make one party the partner, joint venture, principal, agent, or employee of the other party hereto. Specifically, City shall have no express or implied authority to act for or on behalf of Sponsor. Further, no officer, director, employee, agent, affiliate or contractor retained by City to perform work on Sponsor's behalf hereunder shall be deemed to be an employee, agent or contractor of Sponsor. City is solely responsible for payment of (1) all income, disability, withholding, and other employment taxes as well as (2) all medical benefit premiums, vacation pay, sick pay or other fringe benefits resulting from City's retention of any such officers, directors, employees, agents, affiliates or contractors. City shall indemnify, defend, and hold harmless Sponsor from any claim for any such tax or benefit payment.

18. Governing Law

This Agreement will be governed by and construed and interpreted in accordance with the law of the State of California.

19. Termination for Improper Consideration

City may, by written notice to Sponsor, immediately terminate the right of Sponsor to proceed under this Agreement if it is found that consideration, in any form, was offered or given

by Sponsor, either directly or through an intermediary, to any City officer, employee or agent with the intent of securing the Agreement or securing favorable treatment with respect to the award, amendment for extension of the Agreement or the making of any determinations with respect to the Sponsor's performance pursuant to the Agreement. In the event of such termination, City shall be entitled to pursue the same remedies against Sponsor as it could pursue in the event of default by Sponsor.

Sponsor shall immediately report any attempt by a City officer or employee to solicit such improper consideration. The report shall be made either to the Department Head charged with the supervision of the employee.

Among other items, such improper consideration may take the form of cash, discounts, services, the provision of travel or entertainment, or tangible gifts.

20. Termination with or without Cause

Sponsor shall have the right to terminate this Agreement in whole or in part, with cause, upon thirty (30) days prior written notice to City or without cause, upon one hundred eighty (180) days prior written notice to City. Upon receipt of any termination notice, City shall discontinue services on the date stated and to the extent specified in the notice.

Upon termination of this Agreement, or upon request of Sponsor, City will surrender to Sponsor all Vehicles, which are then in City's possession, within one hundred and twenty (120) days, and all memoranda, notes, records, drawings, manuals, software, and all other materials which are the property of Sponsor or which contain information which is proprietary to Sponsor. City will not retain any copies of any Confidential Information of Sponsor.

21. Obligations Survive Agreement Term

The indemnities and assumptions of risks, liabilities and obligations by the parties arising under his Agreement during its term shall continue in effect after the termination of the Agreement, regardless of the reason for termination.

22. Amendment of Agreement

No waiver or modification of any language in this Agreement shall be valid unless in writing and duly executed by both parties. Only nonmaterial Amendments to the Agreement which do not materially change the scope of the Agreement increase the City's financial responsibility or impose additional liability on the City, may be executed without approval of the City Council and all must be in writing and shall not be effective unless and until executed by Sponsor and the City.

23. Entire Agreement

This Agreement contains the entire understanding between the parties relating to the subject matter herein contained.

IN WITNESS WHEREOF Sponsor has executed this Agreement, or caused it to be duly executed, and City, by order of its City Council, has caused this Agreement to be executed on its behalf by the Mayor and attested by the City Clerk, on the day and year first above written.

TOYOTA MOTOR SALES, U.S.A., INC.

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

By: _____

print name

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

Mayor

AND

City Clerk

By: _____

print name

ITS: (circle one) Secretary/Chief Financial Officer/Asst.
Secretary – Treasurer

INITIATED AND APPROVED:



Fire Chief

SOUTHERN CALIFORNIA TOYOTA
DEALERS ADVERTISING ASSOCIATION

REVIEWED AND APPROVED:

By: _____


print name

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

City Manager

APPROVED AS TO FORM:

AND

City Attorney 

By: _____

print name

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

IN WITNESS WHEREOF Sponsor has executed this Agreement, or caused it to be duly executed, and City, by order of its City Council, has caused this Agreement to be executed on its behalf by the Mayor and attested by the City Clerk, on the day and year first above written.

TOYOTA MOTOR SALES, U.S.A., INC.

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

By: _____

print name

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

AND

By: _____

print name

ITS: (circle one) Secretary/Chief Financial Officer/Asst.
Secretary – Treasurer

Mayor

City Clerk

INITIATED AND APPROVED:

Fire Chief

SOUTHERN CALIFORNIA TOYOTA
DEALERS ADVERTISING ASSOCIATION

REVIEWED AND APPROVED:

By: _____

Jennifer I. Lin

print name

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

AND

By: _____

Jennifer Lin

print name

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

City Manager

APPROVED AS TO FORM:

City Attorney *W*

EXHIBIT A
PUBLIC SERVICE ANNOUNCEMENT DISPLAY DETAILS

This Exhibit contains details and the representative example of Item 2. "Grant of Sponsorship Rights.", O. "City will add a public service announcement with Toyota sponsor branding to the freeway digital display."

The "freeway digital display" is the electronic reader board adjacent to the 405 Freeway at Beach Boulevard.

The content of the "public service announcement" must:

1. Contain a Public Safety Message
2. Contain Toyota branding limited to approximately 30%
3. Tie-in to the City – Huntington Beach Lifeguards, etc.
4. Be simple and easy to read.
5. Be approved by the Fire Chief prior to display.

Example of an Approved Public Safety Message:



TOYOTA

HUNTINGTON BEACH LIFEGUARDS

BEACH SAFETY TIP:

ALWAYS SWIM

NEAR A LIFEGUARD

EXHIBIT B
AUTOMOBILE LOSS DAMAGE REPORT

1999 - 2000
TOYOTA MOTOR SALES, U.S.A., INC.,
AUTOMOBILE LOSS/DAMAGE REPORT

(PLEASE COMPLETE ALL SECTIONS ON BOTH SIDES)

DATE, TIME, PLACE

| | | | | |
|-----------|-----------------------|---------------------|------|-------|
| LOSS DATE | TIME [] AM [] PM | LOCATION: STREET(S) | CITY | STATE |
|-----------|-----------------------|---------------------|------|-------|

| |
|----------------------|
| Legal Dept. use only |
| Type |
| Claim No. |
| C. Control |
| TAM C. No. |

ASSOCIATE INFORMATION

| | | | | | |
|---|--|-------------|--|--------------------------------------|--|
| PERSON ASSIGNED TO VEHICLE | | COST CENTER | | MAIL DROP | |
| ADDRESS | | | | RES. PH. | |
| CITY STATE ZIP | | | | BUS. PH. | |
| Accounts Employed By: CATER [] ALARM [] HORN [] TUNA [] TWICE [] TIME [] TIC [] AIRPLATE [] LORUS [] OFF [] TE [] TLR [] TMS [] TOPE [] OTHER [] CILTY [] NAPUD [] TASC [] TBM [] TAGE [] TMM [] TTD [] | | | | | |
| CITY OF OFFICE LOCATION | | | | | |
| MGA LEASE [] ASSOCIATE LEASE [] DEMO [] POOL [] AFFILIATE LEASE [] RENTAL [] | | | | | |
| WAS VEHICLE BEING USED ON BUSINESS | | | | If yes, have your manager sign here: | |
| AT TIME OF ACCIDENT | | | | Y [] N [] | |

DRIVER INFORMATION

| | | | |
|-------------------------------------|------------------------|----------------------------------|---------------------|
| NAME OF DRIVER | RELATIONSHIP TO LEASEE | DATE OF BIRTH (MUST COMPLETE) | SOCIAL SECURITY NO. |
| DRIVERS LICENSE NO. & STATE | ADDRESS | | RES. PH. |
| | CITY STATE ZIP | | BUS. PH. |
| SURRENDER Y [] N [] If yes, date: | | | |

VEHICLE INFORMATION

| | | | |
|-----------------------|------------|----------------------------|-------------------------------------|
| YEAR | MODEL NAME | VIN NUMBER (MUST COMPLETE) | LICENSE NO. |
| DESCRIPTION OF DAMAGE | | | WAS SEAT BELTS WORN? Y [] N [] |

OTHER PARTY INFORMATION

| | | | | | |
|-------------------------------------|-------|------------------|---------------------------------------|-------------------------|--|
| OWNER | | ADDRESS | | RES. PH. | |
| | | CITY STATE ZIP | | BUS. PH. | |
| DRIVER | | ADDRESS | | RES. PH. | |
| | | CITY STATE ZIP | | BUS. PH. | |
| DRIVERS LICENSE NO. | STATE | VEH. LICENSE NO. | STATE | DESCRIPTION OF DAMAGE | |
| VEHICLE YEAR | MAKE | MODEL | WAS OTHER CAR INSURED? Y [] N [] | | |
| NAME OF INSURANCE COMPANY | | POLICY NO. | | INSURANCE CO. PHONE NO. | |
| SURRENDER Y [] N [] If yes, date: | | | | | |

POLICE INFORMATION

| | |
|-----------------------------------|-------------------|
| POLICE DEPARTMENT & TELEPHONE NO. | POLICE REPORT NO. |
|-----------------------------------|-------------------|