

LICENSE AGREEMENT

LICENSEE: FRIGHT NIGHTS PRODUCTION COMPANY, LLC

ADDRESS: Attention: Greg Walker
601 Lagonda Avenue
Lexington, KY 40505
Office: 859.226.9735
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GWalker369@aol.com

ENCROACHMENT LOCATION: Jacobson Park

TERM OF LICENSE: September 6, 2015 to November 30, 2015 which may be renewed for three additional one year periods, upon mutual agreement of the parties.

Dates of Operation: Last weekend in September and Thursday through Sunday in October

Times of Operation: Dusk to 11:00 p.m. on Sunday nights and dusk to 12:00 a.m. on Friday and Saturday nights.

PAYMENT: Payment will be the sum equal to 10% of Gross revenue.

SCOPE OF LICENSE AGREEMENT: Licensee may enter upon Park property to decorate and staff a Halloween event in Jacobson Park.

INSURANCE: Licensee shall purchase and maintain for duration of event all insurance required within the Terms and Conditions.

Agreement is granted by the Lexington-Fayette Urban County Government. It constitutes the complete agreement by and between the parties with respect to the use granted.

**LEXINGTON-FAYETTE URBAN
COUNTY GOVERNMENT (LICENSOR)**

**FRIGHT NIGHTS PRODUCTION
COMPANY, LLC (LICENSEE)**

By:

By: 

Jim Gray, Mayor

Title: *Owner*

Date:

Date: *7-24-15*

TERMS AND CONDITIONS

I. GENERAL TERMS

- A. Licensor hereby grants Licensee a limited license to host Fright Night, an interactive, Halloween-themed entertainment experience, at Jacobson Park under the terms and conditions established herein. Such license shall permit Licensee to use the following areas in Jacobson Park: the Camp Kearney Trails, the Large Camp Kearney Building, the other Camp Kearney Buildings, the Pine Forest Area, and all public parking. Licensee understands and agrees that the license granted hereunder shall be effective only between September 6, 2015, and November 30, 2015, after which time it shall expire. Licensee understands and agrees that the license granted hereunder does not give Licensee, or its customers, an exclusive right to Jacobson Park, or any portion thereof. Licensee shall take no steps to prevent any other entity from using Jacobson Park during the term of this license. Licensor and its agents may enter upon the premises at any time, with or without notice, for any reason.
- B. Licensee shall submit a site plan, describing and/or depicting its proposed trail design, to the Lexington-Fayette Urban County Government, Director of Parks and Recreation ("Director") for his or her approval at least thirty (30) days prior to the first night on which Fright Night will be open to the public. Licensee shall not modify the premises, or any part thereof, unless first authorized to do so by the Director or his or her designated representative. All construction, installation, and/or maintenance Licensee performs on the premises shall be performed in a good and workmanlike manner, and shall be performed at such times and in such manner as to cause as little disruption to the flow of vehicular traffic and public use of the premises as reasonably possible. Licensee agrees that any work required or performed pursuant to this Agreement is to be done in accordance with Lexington-Fayette Urban County Government standards and specifications.
- C. Licensee shall be in default if it violates any of the terms or conditions contained in this Agreement. Should Licensee default on this Agreement, Licensor shall provide Licensee written notice of its default, at which point Licensee shall have ten (10) days to cure the default. If the Licensee does not cure its default, Licensor may elect to cancel and terminate the License Agreement by giving written notice of such to Licensee. Licensee shall have ten (10) days after receipt of such notice to vacate the Premises and restore the property to its original condition.
- D. Licensee shall comply with all federal, state and local statutes, ordinances, rules and regulations which may apply to its use of the premises for the duration of this Agreement.
- E. Licensor shall have the right to review and approve all events, productions, site improvements, and advertising related to Fright Night.

II. DUTIES OF LICENSOR

- A. Licensor shall not be responsible for loss or damage to any equipment, props, or any other property belonging to the Licensee.
- B. Licensor assumes all costs of electricity and agrees to provide electrical support and site inspections including four (4) service panels and two (2) sub panels with total available amperage of 800. All electrical work must be operational and complete one week prior to event start-date. Licensor agrees to have electricity operational and provide one (1) key to panel boxes.
- C. Licensor will provide one staff member to serve as liaison between vendor and the Division of Parks and Recreation to review construction, production planning and implementation and to insure safety, quality and timely response to all requests.
- D. Licensor will provide two (2) sets of keys to the building and front gate for Licensee's use during the term of the License, which are to be returned by the Licensee to the Division of Parks and Recreation upon completion of the production.
- E. Licensor will provide daily trash pick-up of bagged trash and additional trash barrels on the premises.

III. DUTIES OF LICENSEE

- A. Licensee shall be responsible for any damages to the park and/or its structures that may be caused by Licensee or its employees, agents, patrons, or guests.
- B. Licensee shall be responsible for planning, staffing, advertising, and producing Fright Night. Licensee shall design and operate a minimum of twelve (12) scare venues, at which the vendor may use a combination of animatronics, actors, lighting, sound effects, props, and special effects. Licensee agrees to operate Fright Night on all nights scheduled, weather permitting. Licensee shall follow the Division of Parks and Recreation's Severe Weather Policy, and shall notify the Director, or his or her appointed agent, of all cancellations or delays as soon as reasonably possible.
- C. Licensee shall provide all make-up, costumes, and masks. Licensee shall construct and decorate all scare venues at its own expense, as well as the trail connecting such venues. Licensee shall submit a written description of all proposed maintenance and construction to the Director for approval prior to event opening.
- D. Licensee shall provide all personnel for Fright Night, including: event manager, section leaders, actors, parking crew, security, trash pick up, ticket sales concession sales, and all other needs. Licensee shall be responsible for collecting, securing, and accounting for all admission proceeds. Licensee shall neither hire workers, nor accept volunteers, who are under the age of eighteen (18). Licensee shall conduct criminal background checks on all employees before allowing them to assume any of their work duties, which background checks shall be performed at Licensee's expense.

- E. Licensee shall provide a means (e.g. portable radio, cellular phone) by which every scare venue may communicate with Licensee's staff. Licensee shall ensure that any site using pyrotechnics of any sort is equipped with a functioning fire extinguisher.
- F. Licensee shall provide daily trash pickup in the parking and production areas for the duration of the License term, and shall take all trash to dumpsters after each event.
- G. Licensee shall keep electrical panel boxes locked at all times . Licensee shall not modify, or attempt to modify, the electrical services available at the Premises unless Licensee has first received written approval to do so from the Director.
- H. All advertising and promotions featuring the names and/or logos of sponsoring entities shall include the logo of the Lexington-Fayette Urban County Government, Division of Parks and Recreation. The Licensee shall provide four (4) complimentary tickets for each performance to be used by "mystery shoppers" who will evaluate the quality of the experience.
- I. Licensee shall provide signs on the premises directing patrons and guests to all relevant sites. Licensee shall develop, and implement, a Parking Plan which shall maximize safety and minimize traffic congestion, which plan shall be submitted to the Director for approval at the same time as the site plan identified in Section I.B.
- J. Licensee shall provide a minimum of three (3) portable toilets, one (1) of which is to be wheelchair accessible.
- K. Licensee shall ensure that all patrons and guests are out of the park, and shall secure all facilities and the front gate prior to closing each night.

IV. PAYMENT UNDER LICENSE AGREEMENT

- A. Licensee shall keep accurate count of attendance by using tickets which are numbered in sequential order. Licensee shall provide Licensor with a weekly report describing the number of tickets issued to attendees for each day of the preceding week. Licensee shall be responsible for collection of all admission proceeds.
- B. Licensee shall maintain complete and accurate records of all of Licensee's revenues generated from Fright Night during the term of this License, and shall retain such records for no less than five (5) years from the end of the License term.

V. IDEMNITY AND INSURANCE

- A. Licensee shall defend, indemnify and hold harmless Licensor from any and all losses or claims of whatever kind that are in any way incidental to or connected with or that arise or are alleged to have arisen, directly or indirectly, in whole or in part, from the execution, performance or breach of this contract by or the activities of Licensee, including any environmental problems Licensee may cause, including without limitation,

soil and/or water contamination, and remedial investigations and feasibility studies thereof. This indemnity agreement shall in no way be limited by any financial responsibility, insurance, or loss control requirements below and shall survive the termination of this Agreement. For purposes of this Indemnity Provision:

1. The word "defend" includes, but is not limited to, investigating, handling, responding to, resisting, providing a defense for, and defending claims, at Licensee's expense, using attorneys approved in writing by Licensor, which approval shall not be unreasonably withheld.
 2. The word "claims" includes, but is not limited to, claims, demands, liens, suits, notices of violations from Governmental agencies and other causes of action of whatever kind.
 3. The word "losses" includes, but is not limited to, claims, liens, demands, causes-of-action, judgments, penalties, interest, court costs, legal fees, and litigation expenses arising from the death, injury or damage of any kind.
- B. Licensee shall procure and maintain for the duration of the contract, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Licensee. Any and all insurance shall be written on an "occurrence form" for limits not less than those specified below or as required by law, whichever is greater.
1. Commercial General Liability Insurance providing coverage at least as broad as Insurance Services Office Form CG-0001 (07/98) with:
 - a. Combination of primary and umbrella coverage limits of not less than \$1,000,000 per occurrence and a \$2,000,000 aggregate for bodily injury and property damage.
 - b. Endorsements naming as additional insured's, "The Lexington- Fayette Urban County Government, and its elected and appointed officials, employees, agents, boards, consultants, assigns, volunteers and successors in interest."
 - c. Endorsements that coverage shall not be suspended, voided, cancelled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice to Lexington-Fayette Urban County Government, Claims Division, 6th Floor, 200 East Main Street, Lexington, Kentucky 40507.
 2. Comprehensive Automobile Liability Insurance providing coverage at least as broad as Insurance Services Office Form Number CA 0001 (07/97), code I "any auto" with:
 - a. Combined Single Limits not less than \$1,000,000 per occurrence.

b. Endorsement naming as additional insured "The Lexington- Fayette Urban County Government, and its elected and appointed officials, employees, agents, boards, consultants, assigns, volunteers, and successors in interest."

c. Endorsement that coverage shall not be suspended, voided, cancelled by either part, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, to Lexington-Fayette Urban County Government, Claims Division, 6th Floor, 200 East Main Street, Lexington, Kentucky 40507.

3. Workers' Compensation Insurance as required by Kentucky Revised Statutes, and Employer Liability Coverage with:

a. Endorsement that coverage shall not be suspended, voided, cancelled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested to Lexington-Fayette Urban County Government, Claims Division, 6th Floor, 200 East Main Street, Lexington, Kentucky 40507.

- C. Acceptability of Insurers -Insurance is to be placed with insurers with a rating classification of no less than Excellent (A or A-) and a financial size category of no less than VIII, as defined by the most current Best's Key Rating Guide.
- D. Notice of Coverage Renewals- After insurance has been approved by Licensor, evidence of renewal of an expiring policy must be submitted to Licensor on a manually signed renewal endorsement form. If the policy or carrier has changed a new evidence of coverage must be submitted in accordance with these insurance requirements.
- E. Self-Insured Programs- Self-insurance programs, deductibles and self- insured retention in insurance policies are subject to separate approval by the Lexington-Fayette Urban County Government's Division of Risk Management, upon review of evidence of Licensee's financial capacity to respond to claims.
- F. Verification of Coverage- Within thirty (30) days following signing of contract awarding bid, Licensee agrees to furnish Licensor with all applicable certificates of Insurance, and shall provide Licensor copies of all bonds and make available for review upon request any insurance policies, including all endorsements.
- G. Right to Review. Audit and Inspect- Licensee understands and agrees that Licensor may review, audit and inspect any and all of Licensee's records and operations to ensure compliance with these requirements.