

FOOD SERVICE AGREEMENT FOR THE PEORIA CIVIC CENTER, PEORIA, IL

This Service Agreement (together with the Exhibits attached hereto, the “**Agreement**”) is made by and between SMG, and the food and/or beverage services vendor (the “Vendor”) whose name appears on the signature line attached hereto. This agreement is effective upon acceptance by SMG, and is effective on 3/21/16.

THEREFORE, in consideration of the foregoing and the mutual promises, covenants, and agreements herein contained, the parties hereto, intending to be legally bound, hereby agree as follows:

1. Description of Services. Vendor shall perform the services described on Exhibit A attached hereto, during the dates and times as specified for each approved event (the “Services”).
2. Payment. SMG shall pay to Vendor the commissions due as set forth in Exhibit B.
3. Term of Agreement. This Agreement will be effective as of the date hereof and will terminate upon thirty days notice by either party.
4. Default and Termination. The occurrence of any of the following shall constitute default under this Agreement:
 - (a) The sale by Vendor of any product not approved by SMG.
 - (b) The failure by Vendor to make a required payment under this Agreement by the due date.
 - (c) The violation by Vendor of any other provision or requirement under this Agreement that is not corrected within one (1) hour or reasonable time after verbal or written notice of the violation is given to Vendor.
 - (d) The insolvency or bankruptcy of Vendor.
 - (e) The subjection of any of Vendor’s property to any levy, seizure, assignment, application or sale for or by any creditor or government agency.
 - (f) The failure by Vendor to have concession stand fully operational and adequately staff during event operations.
 - (g) The failure by Vendor to receive a passing grade from the Peoria County Health Inspector.

If Vendor is in default under this Agreement, SMG may terminate this Agreement, without notice to or demand on Vendor, except as set forth in subsection (C) above.



If SMG terminates this Agreement due to force majeure, such as an act of God, weather, government, sanctioning body, riot, war, strike, labor disturbance, civil disorder, terrorism, vandalism, or other cause beyond its reasonable control, which prevents the Event from being held or requires it to be canceled or terminated earlier than planned, SMG shall receive the commissions on the sales completed.

5. Audit Rights. Vendor agrees to allow SMG representatives to audit receipts, pre & post event inventories, transfer records, and working conditions at any time
6. Marketing Rights. This agreement carries no rights to marketing or signage outside of your approved sales location(s).
7. Compliance with law/Permits and Licenses. Vendor shall have or acquire the appropriate city certificates, permits and licenses and pay all fees required by city or other authorities to perform its functions during the events at the Peoria Civic Center and comply with all Federal, state, county, city and local laws, orders, rules, regulations or ordinances. SMG agrees to cooperate with Vendor to acquire all licenses and permits required. Vendor warrants that it has a current seller's permit in good standing. All licenses and permits must be displayed and available for inspection. Vendor's failure to comply with any laws, orders, rules, regulations or ordinances shall constitute grounds for immediate termination of this Agreement by SMG in their sole discretion.
8. Taxes. SMG is responsible for all tax collection and remittance for sales conducted at the Peoria Civic Center including but not limited to sales and use tax, to the appropriate State and Local authorities, as required by law.
9. Insurance Vendor, at its sole cost and expense, shall obtain and keep in force during the term of this Agreement the following minimum amounts of insurance coverage that shall be primary and non-contributory with any coverage of Peoria Civic Center, SMG F&B LLC): (a) \$1,000,000 Commercial General Liability insurance with coverage for products and completed operations liability, contractual liability, and property damage; (b) \$1,000,000 Automobile Liability insurance (including hired and non-owned vehicles); (c) statutory Worker's Compensation insurance; and (d) Employer's Liability insurance in an amount not less than \$500,000. All such insurance shall insure performance by Vendor of the indemnity provisions of this Agreement but does not limit Vendor's obligation to indemnify. Each Vendor and/or its subcontractor will be responsible for providing insurance for their equipment and materials located at the Facility.

Vendor must provide SMG an original certificate of insurance naming the parties set forth below as Additional Insureds and waiving all rights of subrogation. All insurance shall be in a form and from an insurer reasonably acceptable to counsel for Company and shall require at least thirty (30) days prior written notice of any modification, cancellation, or exhaustion of limits. Vendor will provide SMG with a certified copy of the above policies if so

requested.

Parties to be named on certificate of insurance as Additional Insureds:

1* **SMG**

Certificate Holder:

SMG

Peoria Civic Center

201 SW Jefferson Avenue

Peoria, IL 61602

Attention: Sarah Luthy / Director of Food & Beverage

10. Indemnification. Vendor agrees to indemnify, defend, and hold harmless SMG, its parent, subsidiary and affiliated companies, and their respective officers, directors, agents; as well as the City of Peoria and all Event sponsors and sanctioning bodies (the "Indemnified Parties") from and against any and all losses, liabilities, claims, damages, and expenses (including reasonable costs of investigation and attorneys' fees) (collectively, the "**Losses**") arising from (i) Vendor's failure to comply with any and all federal and state statutes, laws, and constitutional provisions (collectively, the "**Laws**") applicable to Vendor's performance of this Agreement, (ii) personal or bodily injury to or death of persons or damage to the property of SMG to the extent caused by the grossly negligent acts, errors, and/or omissions or the willful misconduct of Vendor or its officers, directors, agents, employees, or subcontractors, or (iii) a material breach or default by Vendor or its officers, directors, agents, employees, or subcontractors of any provisions of this Agreement which remains uncured after the expiration of all applicable cure periods as set forth in Section 4 above.

11. No Representations or Warranties. SMG specifically makes no representations or warranties, express or implied, to Vendor, including any representations and warranties as to the size of the crowd anticipated to attend the Event, nor the traffic anticipated for, nor the visibility of the location, nor the ability of the Event's patrons to purchase Vendor's product. Vendor accepts the display area "as is, where is".

12. Confidentiality. In connection with the performance of the Services hereunder, any communications, oral or written, that Vendor may need to have with any other party shall be made through SMG and its designated officers and employees, unless Vendor receives the prior written consent from SMG's General Manager.



13. Independent Contractor; No Partnership. SMG and Vendor shall each be and remain an independent contractor with respect to all rights and obligations arising under this Agreement. Nothing herein contained shall make, or be construed to make, SMG or Vendor a partner of one another, nor shall this Agreement be construed to create a partnership or joint venture between and of the parties hereto or referred to herein.

14. Force Majeure. If any casualty or unforeseeable cause beyond the control of either of the parties to this Agreement, including, without limitation, acts of God, fires, floods, epidemics, quarantine restrictions, war, terrorist acts, strikes, failure of public utilities, or unusually severe weather, prevents the performance of this Agreement by either party, such party is hereby released by the other party from any damage so caused thereby.

15. Operation Schedule for Event. Vendor agrees to have its location fully operational and fully staffed at all times during the Event. Failure to be fully operational for events can be cause for termination of this agreement.

16. Bank Operations. The Vendor agrees to use Peoria Civic Center cash banks and adhere to Peoria Civic Center cash and banking policy. All banks are to be picked up during pre-event preparations and returned during post event closings. Under no circumstances should the Vendor bring in their own bank.

17. Condition of Location. The location shall be kept neat and orderly at all times and supplies and other such items shall be kept under cover. On the termination date, the locations shall be returned to the condition in which it was received. Location should be cleaned and maintained with the utmost regard for the safety of our patrons. Vendor must also maintain a passing grade from the Peoria County Health Inspector. Critical Violations will be documented and evaluated by SMG. Consistent Critical Violations can be grounds for termination of this agreement.

18. Concessions Location. SMG reserves the right to move Vendor Location as deemed necessary at any time with written notice.

19. Uniforms. All Vendors must have matching short sleeve- polo shirts with black or khaki slacks exuding a professional demeanor. Absolutely no shorts, open toed shoes, or jeans allow in the building.

20. Risk of Loss or Damage. Vendor assumes all risk of loss or damage to vendor's product, equipment, fixtures and property from any cause whatsoever. To the extent possible, Vendor is responsible for securing its location.

21. Consequential Damages. SMG shall not be responsible for any incidental or consequential damages, lost profits or punitive damages

22. Safety. Vendor hereby certifies to SMG that Vendor is in compliance with all applicable occupational, safety and health and right-to-know rules and regulations and that Vendor's employees and agents are properly trained as required by applicable law. The above shall include, without limitation, rules, regulations, procedures and training relating to confined space entry procedures. Vendor is solely responsible for determining the extent of

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any hazard involved in performing its obligations and for providing its employees and agents with a safe place to work and pertinent safety information and equipment.

23. Invalidity. The determination that any provision of this Agreement is invalid or unenforceable shall not invalidate this Agreement, all of said provisions being inserted conditionally on their being considered legally valid, and this Agreement shall be construed and performed in all respects as if such invalid or unenforceable provision was omitted.

24. Notices. All notices required or permitted to be made under this Agreement shall be in writing and deemed to have been duly given when delivered if sent by prepaid certified or registered mail, nationally recognized overnight courier, or verified receipt of a facsimile transmission to the address set forth herein. Notices by SMG under subsection (4c) of the Default Section may be verbal or written and within reasonable amount of time.

25. Governing Law and Consent to Jurisdiction. This Agreement is subject to and shall be construed in accordance with the laws of the State of Illinois. The parties consent to the exclusive jurisdiction of state and federal courts with respect to any disputes hereunder.

26. No Assignment. This Agreement may not be assigned by Vendor nor shall Vendor allow others to utilize all or a portion of its Location.

27. Attorneys' Fees/Interest. If SMG brings any legal action or other proceeding to interpret or enforce the terms of this Agreement, SMG shall be entitled to recover attorneys' fees and any other costs incurred, in addition to any other relief to which it is entitled. Any amounts delinquent more than thirty (30) days shall accrue interest at the rate of eighteen (18%) percent per annum compounded monthly or such lesser rate as is permitted by law. If Vendor brings any legal action or other proceeding against SMG for any reason, whether arising from a dispute under this agreement or otherwise, and Vendor does not prevail in the legal action or proceeding, SMG shall be entitled to recover reasonable attorneys' fee and any other costs incurred in the defense of the legal action or proceeding, in addition to any other relief to which it is entitled.

28. Waiver. The failure by SMG to enforce any provision of this Agreement shall not be construed as a waiver or limitation of SMG's right to subsequently enforce and compel strict compliance with every provision of this Agreement.

29. Entire Agreement and Modification. This Agreement and the Exhibits hereto constitute the entire agreement between the parties and there are no other promises or conditions in any other agreement whether verbal or written. No modification or amendment of this Agreement shall be effective unless made in writing and signed by both parties. This Agreement shall be binding upon the parties, their successors and assigns

IN WITNESS WHEREOF, the parties hereto have signed this agreement by their duly authorized representatives on the dates set forth below. THE AGREEMENT IS ENFORCEABLE ONLY ONCE ACCEPTED BY SMG.



FOOD & BEVERAGE VENDOR

Vendor's Company
Name:

Contact Name:

Title:

Vendor's Street Address:

City, State, Zip Code:

Telephone Number:

Facsimile Number:

E-mail Address:

Vendor's Federal Tax # or

Social Security#

Vendor's Seller's Permit#

By:

Signature

Name:

Print Name

Title:

SAVOR...

Date:

ACCEPTED BY:

Signature

Name: Sarah Luthy

Date:

Print Name

Title: Director of Food & Beverage

Send all correspondence to:

SMG/SAVOR

Peoria Civic Center

201 SW Jefferson Avenue

Peoria, IL 61602

Attention: Sarah Luthy

Tele: 309-680-3588

Fax: 309-680-3585

E-mail sluthy@peoriaciviccenter.com



Exhibit A

Product/ Menu Schedule

Vendor's Location(s): _____

Vendor Company Name: _____

THE ITEMS LISTED BELOW, ONLY AFTER APPROVED IN WRITING BY SMG, MAY BE PLACED AND SOLD AT VENDOR'S LOCATION DURING THE EVENT.

Vendor:

- *Please list the complete name, description, portion size and price for all items to be sold at your vending area location.*
- *SMG will check for conflicts with sponsorship and pricing*
- *All signage and graphics must be approved or will be custom designed to SMG specifications. Vendor logos must be approved prior to placement.*
- *All stand décor and design must be approved by SMG*
- *Serving Containers to be approved by SMG and absolutely NO SYTROFOAM will be allowed in the Peoria Civic Center Effective 11-17-14*

If additional pages are needed, please photocopy and attach.

	Product Name & Description	Portion Size	Selling Price	SMG Approval
1.	_____			
2.	_____			
3.	_____			
4.	_____			

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Exhibit B Schedules

DEADLINES

- **Copy of Exhibit A**
- **Signed and dated copy of this Agreement**
- **Original Certificate of Insurance**
- **Proof of Worker' Compensation Coverage**
- **Seller's Permit Certification**
- **City License Information**
- **Health Permit**

DUE DATE

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Associated Charges

SMG will make every reasonable attempt to furnish the necessary equipment. However, due to specifications of layout and design, some items may not meet Vendors exact specifications. It is ultimately the Vendor's responsibility to furnish equipment needed after reasonable efforts have been made by SMG/SAVOR.

Operating Supplies

Vendor is also responsible for all operating supplies necessary for operation of stand to include and not limited to chemicals, gloves, cleaning supplies, and disposable wares etc...

Commission Calculation (Enter in Detail Below)

- A commission of 63% on gross sales, net of tax, shall be paid to SMG/SAVOR on all food or beverages sold by Vendor during any event during the life of this agreement. The remaining 37% of respective gross sales net of tax shall remain with the vendor.
- Sales Tax Remittance: SMG/SAVOR to be responsible for remitting sales tax on gross sales. The related tax funds shall be forwarded to the remitting party.
- Registers must be used at all times, unless otherwise approved by SAVOR Director of Food and Beverage.
- Vendor must report to designated office to complete settlement after each day within 45 minutes after Vendor's location closes at which time SMG agrees to have an attendant on staff to assist with settlement.

