

MT. DIABLO UNIFIED SCHOOL DISTRICT
1936 Carlotta Drive
Concord, CA 94519

**AGREEMENT BETWEEN
MT. DIABLO UNIFIED SCHOOL DISTRICT
AND INDEPENDENT CONTRACTOR**

THIS AGREEMENT is made this 11th day of March, by and between the Mt. Diablo Unified School District (hereinafter "District") and Events To The T, Inc. (hereinafter "Contractor").

District hereby engages Contractor to render services under the terms and conditions of this Agreement.

1. Performance of Services

(a) Contractor agrees to perform the services described on Exhibit "A" (hereinafter "Services") on page 4 of this Agreement as an independent contractor. Contractor will determine the means, manner, method, and details of performing the Services. Contractor shall be responsible for providing the materials, tools and transportation necessary for the performance of the services. Contractor may, at Contractor's own expense, use non-District employees to perform the Services under this Agreement. Subcontractors may be used only with the written approval of the District.

(b) Contractor represents that Contractor has the qualifications and ability to perform the Services in a professional manner, without the advice, control, or supervision of the District. Contractor shall be solely responsible for the professional performance of the services, and shall receive no assistance, direction, or control from District. Contractor shall have sole discretion and control of Contractor's services and the manner in which they are performed.

2. Compensation. District agrees to compensate Contractor for the performance of the services on the following basis:

\$ 20,500 total fee for Services 326 3936-49-5800 \$ 20,500⁰⁰

The basis of the fee for Services shall be as follow _____ \$ _____

- a. \$ _____ per hour, _____ \$ _____
- b. \$ _____ per day, or _____ BUDGET CODE(S) _____
- c. \$ 20,500 per engagement.

Check One:

- Partial Payments: Contractor shall invoice District on a monthly basis or as agreed to for all hours worked pursuant to this Agreement.
- Partial Payments: District shall make a payment per schedule detailed in Exhibit A. District Administrator will verify invoice indicating that all required services have been performed by each timeline.
- Payment in Full: Contractor shall invoice District on completion of services. District Administrator will verify invoice indicating that all required services have been performed.

Contractor shall be responsible for all expenses incurred in association with the performance of the Services.

3. Term and Termination. This Agreement will become effective on March 11, 2016. This Agreement will terminate upon the completion of the Services or when terminated as set forth below.

Either party may terminate this Agreement at any time by giving thirty (30) days written notice to the other party. Should either party default in the performance of this Agreement or materially breach any of its provisions, the non-breaching party may terminate this Agreement by giving written notice to the breaching party. Termination shall be effective immediately on receipt of said notice.

4. Relationship of the Parties. Contractor enters into this Agreement as, and shall continue to be, an independent contractor. Under no circumstances shall Contractor be considered an employee of District within the meaning of any federal, state, or local law or regulation including, but not limited to, laws or regulations governing unemployment insurance, old age benefits, workers' compensation, industrial illness or accident coverage, taxes, or labor and employment in general. Under no circumstances shall Contractor look to District as his/her employer, or as a partner, agent, or principal. Contractor shall not be entitled to any benefits accorded to District's employees, including, without limitation, workers' compensation, disability insurance, vacation, or sick pay. Contractor shall be responsible for providing, at Contractor's expense, and in the Contractor's name, disability, workers' compensation or other insurance, as well as licenses and permits usual or necessary for conducting the Services hereunder.

Contractor shall pay, when and as due, any and all local, state and federal income or other taxes incurred as a result of Contractor's compensation hereunder, including estimated taxes, and shall provide District with proof of said payments upon demand.

5. Fingerprinting and Criminal Records Check of Contractor's Employees. Contractor shall comply with the provisions of California Education Code §45125.1 regarding the submission of fingerprints to the California Department of Justice and the completion of criminal background investigations of the contractor and/or its employees. To the extent Education Code §45125.1 is applicable, Contractor shall not permit any employee to have any contact with District pupils until such time as Contractor has verified in writing to the governing board of the District that such employee has not been convicted of a felony, as defined in Education Code §45125.1. Contractor shall provide the certification document attached hereto as Exhibit ____ prior to commencing work under this Agreement.
6. Rules and Regulations. All rules, policies, and regulations of the Mt. Diablo Unified School District Board of Education and all federal, state, and local laws, ordinances and regulations are to be observed strictly by Contractor pursuant to this Agreement.
7. Indemnification. Contractor shall hold harmless, defend and indemnify District and its officers, elected and appointed officials, employees and volunteers from and against any and all liability, loss, damage, expense, costs (including without limitation costs and fees of litigation) of every nature arising out of or in connection with Contractor's performance of work hereunder or its failure to comply with any of its obligations contained in this agreement, except such loss or damage which was caused by the sole negligence or willful misconduct of the District.
8. Insurance. Contractor shall procure and maintain for the duration of the agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the Contractor, his agents, representatives, employees or subcontractors. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the District.

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. **EXCEPTION:** Contracts of less than \$5,000 need only provide general liability insurance of \$1,000,000 per occurrence.
2. **Automobile Liability:** ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with a limit no less than \$1,000,000 per accident for bodily injury and property damage.
3. **Workers' Compensation:** as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.
4. **Professional Liability/Errors & Omissions Liability,** if applicable: \$1,000,000 per occurrence.

If the contractor maintains higher limits than the minimums shown above, the District requires and shall be entitled to coverage for the higher limits maintained by the contractor.

Purchase Requisition # PR 91589

The insurance policies are to contain, or be endorsed to contain, the following provisions:

Additional Insured Status

The District, its officers, officials, employees, and volunteers are to be named as additional insured by endorsement to the Commercial General Liability policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts or equipment furnished in connection with such work or operations.

Primary Coverage

For any claims related to this contract, the Contractor's insurance coverage shall be primary insurance as respects the District, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the District, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

Notice of Cancellation

Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the District.

INSURANCE REQUIREMENTS

No waiver will be granted to eliminate the insurance requirements outlined in this contract. However, in special circumstances, certain insurance requirements may be modified or waived. The following items in Insurance section 8 are hereby waived or modified as follows:

Limits: _____

Other: _____

The initials of the Superintendent, or his/her designee, and the General Counsel, are required to waive or modify any Insurance requirements in this Agreement:

Superintendent

General Counsel

- 9. Ownership of Designs and Plans. Contractor agrees that all designs, plans, reports, specifications, drawings, schematics, prototypes, models, inventions and all other information and items made during the course of this Agreement and arising from the Services shall be owned by and assigned to District as its sole and exclusive property.
- 10. Notice. Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served and received if given in writing and either personally delivered or deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, or sent by telegram, overnight delivery service, or facsimile transmission, addressed as follows:

DISTRICT

Mt. Diablo Unified School District
1936 Carlotta Drive
Concord, CA 94519-1397
Attn: Superintendent

CONTRACTOR

Name: Events To The T, Inc.
 Attn: Toby Prosscher
 Address: 286 Brady St
Martinez, CA 94553
 Phone: 925.525.8629
 Fax: 925.335.9797
 Tax ID #: 33-1013077

Any notice personally given or sent by telegram or facsimile transmission shall be effective upon receipt. Any notice sent by overnight delivery service shall be effective the next business day following delivery thereof to

Purchase Requisition # PR91589

the overnight delivery service. Any notice given by mail shall be effective three (3) days after deposit in the United States mail.

- 11. Entire Agreement of Parties. This Agreement constitutes the entire agreement between the parties and supersedes all prior discussions, negotiations and agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both parties.
- 12. California Law. This Agreement shall be governed by and the rights, duties and obligations of the parties shall be determined and enforced in accordance with the laws of the State of California. The parties further agree that any action or proceeding brought to enforce the terms and conditions of this Agreement shall be maintained in Contra Costa County, California.
- 13. Attorneys' Fees. If either party files any action or brings any proceedings against the other arising out of this Agreement, the prevailing party shall be entitled to recover, in addition to its costs of suit and damages, reasonable attorneys' fees to be fixed by the court. The "prevailing party" shall be the party who is entitled to recover its costs of suit as awarded by a court of competent jurisdiction, whether or not suit proceeds to final judgment. No sum for attorneys' fees shall be counted in calculating the amount of a judgment for purposes of determining whether a party is entitled to its costs or attorneys' fees.
- 14. Waiver. The waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

MT. DIABLO UNIFIED SCHOOL DISTRICT

By: [Signature] 4/13/16
 Principal/Budget Administrator Date
 Title: Rianne Pfaltzgraff
 Print Name and Title Principal

Events To The 'IT' Inc.
 Independent Contractor/Consultant
 By: [Signature] 3/11/16
 Signature of Contractor/Consultant Date
 Title: Toby Proescher - CEO
 Print Name and Title

Authorized and Approved by:
[Signature] 4/13/16
 Assistant or Associate Superintendent Date

Prior to commencement of service, sign and forward completed original contract to Fiscal Services.

[Signature] 4/13/16 Concord High School
 Originator's Signature Date Site/Department Originating this Contract
Leah Darby, Teacher
 Print Name of Originator and Title

Billing Address if reimbursed by outside agency—i.e. ASB, PTA, PFC

Distribution	
original:	Fiscal Services for payment
copy:	Contractor
copy:	Originator/Budget Administrator

EXHIBIT A

LIST OF SERVICES, INCLUDING DATE(S), TO BE PERFORMED BY CONTRACTOR

IF PARTIAL PAYMENTS ARE TO BE MADE TO CONTRACTOR ON A SCHEDULE
AS INDICATED ON PAGE 1, PLEASE LIST PAYMENT SCHEDULE HERE

Prom Venue

Reserved area:
Swamp, Piazza, West Pavilion, African, Aquarium

~~Audio visual \$350 due May 17th, 2017~~

Rental Fee Deposit
\$4125 due March 28th, 2017

Balance of Rental Fee
\$11,375 due May 17, 2017  \$5000 due 2/10/17

~~Security Deposit
\$1500 due May 17, 2017~~



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

12/04/2015

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 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 Hiscox Inc. d/b/a/ Hiscox Insurance Agency In CA 620 Madison Avenue 32nd Floor New York, NY 10022	CONTACT NAME:	
	PHONE (Co. No. Ext.): (888) 202-3007	FAX No.:
	EMAIL ADDRESS: contact@hiscox.com	
	INSURER(S) AFFORDING COVERAGE	NAIC#
	INSURER A: Hiscox Insurance Company Inc	10200
INSURED Events To The T, Inc. 2764 Vanado Camino Walnut Creek CA 94598	INSURER D:	
	INSURER E:	
	INSURER F:	
	INSURER G:	
	INSURER H:	

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.

INSURER	TYPE OF INSURANCE	ADD. INSURER	POLICY NUMBER	POLICY EFF.	POLICY EXP.	LIMITS
LIB		INSO		(MM/DD/YYYY)	(MM/DD/YYYY)	
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> CGL is on BOP Form	Y	UDC-1866925-BOP-15	12/02/2015	12/02/2016	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea. occ./year) \$ 50,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ Sft Each Occ. GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMPROP AGG \$ Sft Gen. Agg. \$
	GENL AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:					
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS					COMBINED SINGLE LIMIT (Per accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB EXCESS LIAB DED. RETENTION					EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/OWNER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N/A				PER STATUTE OTHER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Mt. Diablo Unified School District, its officers, officials, agents, employees and volunteers are additional insureds.

CERTIFICATE HOLDER Mt. Diablo Unified School District, its officers, officials, agents, employees and volunteers 1936 Carlotta Dr. Concord, CA 94519	CANCELLATION 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

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Hiscox Insurance Company Inc.

Policy Number: UDC-1666925-BOP-16
Named Insured: Events To The 'T', Inc.
Endorsement Number: 19
Endorsement Effective: December 07, 2016

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – DESIGNATED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):
Mt. Diablo Unified School District, its officers, officials, agents, employees and volunteers 1936 Carlotta Drive Concord, CA 94619
<i>Information required to complete this Schedule, if not shown above, will be shown in the Declarations.</i>

The following is added to Paragraph C, Who Is An Insured in Section II -- Liability:

- Any person(s) or organization(s) shown in the Schedule is also an additional insured, 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 in the performance of your ongoing operations or in connection with your premises owned by or rented to you.

Events to the 'T' Inc

286 Brady Street
Martinez, CA 94553

(925) 335-0633 Office
(925)525-8629 Cell
(925) 335-9797 Fax

www.Sfproms.com

EVENT CONTRACT

This agreement is entered into on February 23, 2016 between EVENTS TO THE 'T' Inc. and CONCORD HIGH SCHOOL/MT. DIABLO UNIFIED SCHOOL DISTRICT, Concord, California.

THE FOLLOWING IS AGREED UPON BETWEEN BOTH PARTIES:

____ 1. For the engagement described hereinafter Events To The 'T' Inc. will provide:

- CA Academy of Sciences (Swamp, Piazza, African Hall, East OR West Pavilion, Lobby)
- Steinhart Aquarium Rental (90 min TBD)
- Food: TBD
- Drinks: TBD
- DJ: TBD
- Decorations: TBD
- 2M Insurance policy requirement:
- Facility Set-Up & Clean-Up
- Coat Check Materials for Female Coat Check (CHS to Staff)
- Events to the 'T' Inc. Manager

____ 2. Event Location:

California Academy of Sciences
55 Music Concourse Dr., Golden Gate Park
San Francisco, CA 94118

____ 3. Date(s) / Time (s) of engagement:

Friday, May 19, 2017
5:15p.m. - 7:30p.m. Set-up
7:30p.m. -12:00a.m. Ball

____ 4. Agreed upon compensation for engagement:

\$20,500.00 facility rental only for 500 students
*Price includes \$500 parking garage deposit
*Price includes \$5/student guest services fee
*Price includes Steinhardt Aquarium rental

____ 5. Deposit schedule:

\$ 4,125.00
\$ 5,000.00
\$11,375.00 +extras

To Reserve
2/10/17
5/19/17

Events to the 'T' Inc

286 Brady Street
Martinez, CA 94553

(925) 335-0633 Office
(925) 525-8629 Cell
(925) 335-9797 Fax

www.Sfproms.com

TERMS OF AGREEMENT

- 1) Events To The 'T' will act as your agent and book all requested vendors.
- 2) Events To The 'T' will schedule all arrivals, handle all deposits and payments, and ensure all scheduled activities are approved by the event site.
- 3) In the event of sickness, accident, acts of god and/or other legitimate conditions beyond the above vendor's control, every effort will be made to find a replacement. Events To The 'T' and vendor's liability are limited to vendors price.
- 4) Client will assume full responsibility and liability for the conduct of his or her guests regarding theft or damage to any performers' equipment, or injury to any performer caused by intentional or negligent acts by clients or his or her guests.
- 5) No verbal agreement may amend this contract. If any legal action is necessary to enforce the terms of this agreement, Events To The 'T' will be entitled to reasonable collection fees.
- 6) Any deposits/balances unpaid after due date will accrue a 1.5% interest rate per month.
- 7) Lessee agrees to indemnify and hold lessor harmless from any and all claims, actions, suits, proceeding costs, expenses, damages and liabilities, including reasonable attorney's fees arising by reason of injury, damage, or death to persons or property, in connection with or resulting from the use of equipment including, but not limited to the manufacture, selection, delivery, possession, use, operation, or return of the equipment.

TERMINATION OF AGREEMENT

- 1) If terminating a date, written notice must be received at least ninety (90) days prior to cancellation.
- 2) Outside of ninety days the full facility rental fees are due and 100% of expected commissions will be due to Events To The 'T' Inc.
- 3) If terminating 30-90 days prior to event date, client will increase payment to 50% of expected total of said event. Events To The 'T' Inc. will pay off all deposits due to vendors per their contracts and 100% of expected commissions due to Events To The 'T' Inc. We will then mail you a refund check with an itemized cancellation fee schedule.
- 4) If terminating event within 30 days, full payment is due. Events To The 'T' Inc. will pay off all monies due to vendors per their contracts and 100% of expected commissions due to Events To The 'T' Inc. We will then mail you a refund check with an itemized cancellation fee schedule.

The undersigned, _____, acting as an authorized agent of Concord High School/MDUSD hereby accepts and agrees to the terms of the contract and as recognition thereof has signed below.

(Name of Client)

(Area Code & Phone Number)

(Mailing Address)

(City)

(State)

(Zip)

(Signature of Client)

(Date)

2/23/16

(Toby Proescher, Events to the 'T' Inc.)

(Date)

Events to the 'T' Inc

286 Brady Street
Martinez, CA 94553

(925) 335-0633 Office
(925) 525-8629 Cell
(925) 335-9797 Fax

www.Sfproms.com

SPECIAL NOTES:

- DJ to setup in Plaza for dancing. DJ to bring Ipod with background music for other rooms
- School **must** provide a minimum of 25 chaperones. Mandatory positions as follows:
 - 2 by Swamp at all times (don't throw anything in)
 - 1 by Living Roof staircase/bathroom (right of lobby)
 - 1 in front of Penguin habitat (tell students no flash photography)
 - 1 outside East or West Terrace
 - 1 at Lobby entrance
 - 8 in Aquarium during viewing time
- Customer may provide school, theme, or event logo to display on lobby monitors. The images must be submitted by **5/5/17** in a 72dpi, 1280x720 JPEG. There are 6 monitors total (3 per side that can be used)
- All materials for female coat check include: racks, hangers, tickets, paper bags, sharpie pens
- Male coat check is operated and staffed by Academy of Sciences employees

The information below is subject to change:

- Garage at 55 Music Concourse Dr. is open until 12:30a. Parking from 5:30p-12:30a is \$15
- A \$500 garage deposit is included in this price. If 33 cars park, the entire amount is refunded. If you are arriving entirely by bus, we close the garage and you will not be charged
- You may choose to use either the East or West Pavillion. The newly redesigned East Pavillion is slated to have live animals exhibited so karaoke will no longer be permitted. The West Pavillion will be able to feature karaoke with the Earthquake exhibit open, and shake room staffed.
- The Academy has instituted a \$1000 (down from \$3K) Catering Fee to all prom events when a caterer such as McCall's is used. This does not apply to crepe/bar service/chocolate fountain vendors. This fee will be included in your final catering bill once decided.

OUTSIDE VENDORS:

Any outside vendor brought in through school must obtain and maintain in full force and effect the following insurance: (i) commercial general liability Insurance with a limit of not less than \$2,000,000 per occurrence **and** annual aggregate; (ii) workers' compensation insurance in accordance with applicable law, (iii) employers' liability coverage with a limit of not less than \$1,000,000; and (iv) business automobile liability insurance with a limit of not less than \$1,000,000 each occurrence, including coverage for owned, non-owned and hired automobiles.

Policy to list *Events To The 'T', Inc, California Academy of Sciences, the City and County of San Francisco, including its Recreation and Parks Commission, and their respective officers, trustees, commissioners, agents and employees* as additionally insured for \$2,000,000.

Please note that client school assumes all liability from damages done to premises by outside vendors!

- *All food/drink to be added later and new contract will be submitted
- *Aquarium time TBD (90 min, ending by 10:45pm)
- *Includes slippers for women who take their shoes off

For information only -

CALIFORNIA ACADEMY OF SCIENCES RENTAL AGREEMENT
BASIC TERMS AND DEFINITIONS

RENTER:	CONFIRMATION DEADLINE:
<u>Events to the T</u>	<u>Monday, 28th March, 2016</u>
CONTACT:	DESCRIPTION OF EVENT:
<u>Toby Proescher, CEO</u>	<u>Concord High School Prom</u>
PHONE NUMBER:	DATE OF EVENT:
<u>925-335-8629</u>	<u>Friday, 19th May, 2017</u>
FAX NUMBER:	TIME OF EVENT:
<u>925-335-9797</u>	<u>7:30pm - 12:00am</u>
ADDRESS:	RESERVED AREA:
<u>286 Brady Street</u>	<u>Swamp, Piazza, West Pavilion, African Hall, Aquarium;</u> <u>(90 minute viewing)</u>
CITY, STATE AND ZIP CODE:	RENTAL FEE:
<u>Martinez, CA 94553</u>	<u>\$16,500.00</u>
EMAIL ADDRESS:	*25% RENTAL FEE DEPOSIT (NON-REFUNDABLE):
<u>toby@lavishevents.com</u>	<u>\$4,125.00 due Monday, 28th March, 2017</u>
CLIENT (IF DIFFERENT FROM RENTER):	BALANCE OF RENTAL FEE & AV FEE:
<u>Concord High School</u>	<u>\$12,375.00 due Monday, 17th May, 2017</u>
ESTIMATED NO. OF ATTENDEES:	SECURITY DEPOSIT (REFUNDABLE)
<u>500+ ppl.</u>	<u>\$1,500.00 due Monday, 17th May, 2017</u>
AUDIO VISUAL TECHNICIAN FEE:	
<u>\$350.00 due Monday, 17th May, 2017</u>	

** The usual non-refundable deposit is 50% of the total rental fee. It is agreed the renter is liable for the full 50% of the rental fee (additional 25%) if renter or end client cancels the event.

The Academy accepts payments via check, cash, wire or ACH Transfer.

By signing below, Renter confirms that Renter has read and agrees to the terms and conditions of this Rental Agreement (this "Agreement"), consisting of Paragraphs 1 through 15, the Insurance Requirements ("Insurance Requirements") attached hereto as Exhibit A, the Facility Rental Policies and Procedures ("Policies and Procedures") attached hereto as Exhibit B, and the Caterer and Vendor Rules and Procedures ("Caterer Rules") attached hereto as Exhibit C, including the Food Service Guidelines attached as Schedule 1 thereto. Please note that Renter must also Initial Paragraph 6 of this Agreement and sign the last page of the Policies and Procedures. In addition, if Client is different from Renter, by signing below, Client confirms that Client has read and agrees to the terms and conditions of this Agreement, the Policies and Procedures and the Caterer Rules. Please note that Client (if different from Renter) must Initial Paragraph 6 of this Agreement and sign the last page of the Policies and Procedures.

CALIFORNIA ACADEMY OF SCIENCES:

RENTER: Events to the T

By:

Anne Rianda
Associate Director, Facility Rentals
(415) 379-5497

Toby Proescher
(type or print name)

Date Signed:

3/8/16

Date Signed:

CLIENT (if different from Renter):

Rianne Pfaltzgraff, Concord High School
(type or print name)

Date Signed:

3/8/16

CALIFORNIA ACADEMY OF SCIENCES RENTAL AGREEMENT

The California Academy of Sciences ("Academy") is a California nonprofit public benefit corporation. The Academy's mission is to *explore, explain and sustain life*.

The party signing this Agreement as "Renter" is responsible for all sums owing to the Academy under this Agreement, and for compliance with all of the other terms and conditions of this Agreement. If the "Client" (the end-user) for the Event is different from Renter, Client must sign on page 1, initial Paragraph 6 below, and sign the last page of the Policies and Procedures.

Capitalized terms not otherwise defined herein shall have the meaning specified in the Basic Terms and Definitions ("Basic Terms") on page 1.

1. **Confirmation of Date of Event.** Reserved dates are not confirmed until the Academy gives written notice to Renter that the Academy has received (i) one (1) original of this Agreement signed by Renter and Client (if applicable), (ii) one (1) original of the Policies and Procedures signed by Renter and Client (if applicable) and (iii) the non-refundable Rental Fee Deposit specified in the Basic Terms. **If all of the foregoing are not received by the Academy on or before the Confirmation Deadline specified in the Basic Terms, the reservation shall automatically be cancelled.** The Academy reserves the right to reject requests for reservations and to approve all activities of Renter under this Agreement.

2. **Reserved Area.** Upon timely payment by Renter of all amounts due hereunder and Renter's and Client's compliance with all of their other obligations under this Agreement, the Academy grants Renter a license, subject to the terms and conditions contained herein, to use the Reserved Area in the Academy Building for the purpose of holding the Event described in the Basic Terms and for no other purpose.

3. **Payments.**

(a) **Rental Fee.** The Rental Fee for the Reserved Area is the amount specified in the Basic Terms.

(b) **Rental Fee Deposit.** A **non-refundable** Rental Fee Deposit in an amount equal to fifty percent (25%) of the Rental Fee, as specified in the Basic Terms, is due upon execution of this Agreement.

(c) **Balance of Rental Fee.** The fifty percent (75%) balance of the Rental Fee is due upon the earlier of (i) ten (10) business days prior to the Date of Event or (ii) the date for payment specified in the Basic Terms. This Agreement will be cancelled if payment of the balance of the Rental Fee is not received when due.

(d) **Security Deposit.** Renter agrees to pay a Security Deposit in the amount specified in the Basic Terms due upon the earlier of (i) thirty (30) business days prior to the Date of Event or (ii) the date for payment specified in the Basic Terms.

(e) **Audio Visual Technician Fee:** One AV Technician is required for all events. Basic AV fees are \$350.00 + depending on the event needs. An estimate will be provided to Renter after walk-through with AV/EE. Any additional AV fees will be invoiced and due at least 14 days prior to Date of Event. AV fees requested after fifteen (15) days prior to Date of Event will be deducted from Security Deposit.

(f) **Additional Service(s):** Additional Service(s) include, but are not limited to the following: Academy docent programs, extended retail store hours, Aquarium dive shows, Planetarium shows, and additional event staging. An estimate will be provided to Renter following walk-through with special events coordinator. Additional Service(s) fees will be invoiced and due at least 14 days prior to Date of Event. Additional Service(s) fees requested after fifteen (15) days prior to Date of Event will be deducted from Security Deposit.

(g) **Failure to Vacate.** If the Reserved Area is not completely vacated and left in the same condition as upon delivery to Renter within one and one-half (1-1/2) hours after the scheduled ending time of the Event, Renter agrees to pay an additional fee of Seven Hundred Fifty Dollars (\$750.00) per hour for each additional hour or partial hour beyond the scheduled ending time.

4. **Rescheduling.** Subject to availability, Renter may reschedule an Event to another date no later than six (6) months after the original Date of Event, provided that Renter notifies the Academy of such request for re-scheduling at least sixty (60) days prior to the original Date of Event. If Renter so reschedules an Event, the Rental Fee Deposit will be applied to the rescheduled Event.

5. **Default by Renter.** If Renter fails to pay the Rental Fee, Service Fee, Security Deposit or other amount when due, fails to timely provide evidence of required insurance, or otherwise fails to perform any obligation of Renter under this Agreement, the Academy may terminate this Agreement and Renter's right to use the Reserved Area.

6. **Cancellation.** If the Academy terminates this Agreement for any reason other than the default of Renter or Client, the Academy shall refund the Rental Fee Deposit and any other fees paid by Renter within sixty (60) days after such cancellation. If (i) Renter cancels the Event or is unable or unwilling to reschedule the Event as set forth in Paragraph 4 above or (ii) the Academy terminates this Agreement due to the default of Renter or Client, the Academy shall be entitled to retain the Rental Fee Deposit as liquidated damages. The parties acknowledge that the actual damages the Academy would suffer in such circumstances are impracticable and extremely difficult to determine, and that the Rental Fee Deposit is a reasonable estimate of such damages.

Renter's Initials: _____

Client's Initials (If applicable): _____

7. **Application of Security Deposit.** If Renter or Client fails to pay any amount when due under this Agreement, or any Renter Party causes damage to the Academy Building or its exhibits, or causes harm to or endangers the live animals on exhibit, or Renter or Client otherwise defaults with respect to any provision of this Agreement, the Academy may apply or retain all or any portion of the Security Deposit for the payment of such delinquent amount, or to compensate the Academy for any loss or damage. The Academy shall not be required to keep the Security Deposit separate from its general account, and no trust relationship is created between the Academy and Renter with respect to the Security Deposit. If Renter and Client perform all of their obligations hereunder, the Security Deposit, or so much thereof as has not been applied by the Academy, shall be returned to Renter after the Event, without payment of interest.

8. **Academy Services.** The Rental Fee and Service Fee include the following services: (i) one special events coordinator to be present during the Event; (ii) one technician for engineering and electrical needs; (iii) security guards, guest services staff, and a staffed biologist, in accordance with the Academy's standard practices; and (iv) general custodial services. All additional services, equipment and personnel shall be paid for by Renter. Renter expressly agrees that the Academy may, in its sole discretion, determine that additional security is necessary or desirable in connection with the Event, in which case Renter shall reimburse the Academy for such security services within ten (10) days after receipt of invoice. Renter acknowledges that the Academy security staff are present to protect the Academy Building and its contents only. The Academy security staff has no duty to protect Renter Parties (as defined in Paragraph 13(a) below), or their property. Any security service hired by Renter must be approved in advance by the Academy.

9. **Condition of Reserved Area; Temporary Closure of Exhibits.**

(a) **Condition of Reserved Area.** Renter has had an opportunity to inspect the Reserved Area, and agrees to accept the Reserved Area in its existing "as is" condition, without representation or warranty of any kind by the Academy. The Academy reserves the right at any time and from time to time, to alter the Academy Building, including the Reserved Area, and Renter acknowledges that the Academy Building and the Reserved Area may be different on the Date of Event than on the date of Renter's inspection.

(b) **Temporary Closure of Exhibits.** Renter acknowledges that occasionally it is necessary or advisable to close exhibits in order to perform maintenance, repairs, or remodeling or to protect the safety, health or general well-being of plants and animals in the exhibits. If the Academy determines that such closure will occur during the Event, the Academy will promptly so notify Renter. Renter shall have no right to terminate this Agreement due to such closure, but in such case the Academy and Renter agree to work cooperatively to substitute other exhibit(s) for the closed exhibit(s).

10. **Compliance with Laws and Policies and Procedures.** Renter and Client shall be fully responsible for identifying and complying with, and causing all Renter Parties to comply with, all laws, ordinances and regulations relating to its use of the Reserved Area, including all fire department regulations, event permits, and licenses. In addition, Renter and Client each agrees to observe and comply with, and to cause all Renter Parties to observe and comply with, the Policies and Procedures.

11. **Approval of Material.** The content of any electronic or printed material referencing the Academy, including invitations, programs, promotional materials, signs, posters, and tickets, must be approved in advance by the Academy. Renter shall be entitled to use the Academy trademark, CALIFORNIA ACADEMY OF SCIENCES, including the Academy trademark logo, in print or electronic materials, solely for the purpose of referencing the Academy Building as the site of the Event. Renter shall not have the right to use any other Academy trademarks, or any photographs of the Academy or other copyrighted images of the Academy, without the prior written approval of the Academy.

12. **Insurance.** Renter, at Renter's expense, shall comply with the applicable Insurance Requirements specified in Exhibit A attached hereto. In addition, Renter shall cause each of its caterers and vendors for the Event to comply with the applicable Insurance Requirements specified in Exhibit A. Renter acknowledges that failure to provide the Academy with satisfactory evidence of required insurance at least fourteen (14) days prior to the Date of Event may, in the Academy's sole discretion, result in termination of this Agreement or denial of Renter's ability to use the caterer or vendor failing to provide satisfactory evidence of required insurance.

13. **Certain Definitions; Waiver; Indemnification.**

(a) **Definitions.** For purposes of this Agreement, the term "Renter Parties" means Renter and Client (if applicable), their contractors, subcontractors, vendors, agents, invitees and guests, and the respective officers, directors, trustees and employees of any such persons. The term "Academy Parties" means the Academy, its contractors and agents, and the respective officers, directors, trustees, and employees of any such persons. The term "City Parties" means the City and County of San Francisco, including its Recreation and Parks Commission, and its commissioners, contractors, agents and employees.

(b) **Waiver of Claims.** To the maximum extent permitted by law, Renter and Client, each on its own behalf and on behalf of all Renter Parties, waives all claims against Academy Parties and City Parties arising out of, and assumes the risk of: (i) injury to or death of any person or (ii) loss of, injury or damage to, or destruction of any property in, on or about the Academy Building. In no event shall Academy Parties or City Parties be liable for any consequential or special damages suffered by Renter or Client.

(c) **Indemnity.** To the maximum extent permitted by law, Renter shall, at Renter's sole expense and with counsel reasonably acceptable to the Academy, indemnify, defend and hold harmless Academy Parties and City Parties from and against all claims, losses, costs, damage, expense (including reasonable attorneys' fees and costs), liabilities, actions, and causes of action of any kind, including any injury to or death of any person or loss of, injury or damage to, or destruction of any property, arising out of or relating directly or indirectly to: (i) the condition of the Reserved Area or the Academy Building in connection with the use by the Renter Parties, provided that Renter shall have no obligation to indemnify, defend and hold harmless Academy Parties and/or City Parties from any claims arising out of or relating to Academy's failure to maintain the Academy Building in compliance with all applicable laws; (ii) the use or manner of use of the Reserved Area by Renter Parties, including the service of alcoholic beverages; (iii) any act, omission, negligence, or fault of Renter Parties in, on or about the Reserved Area or the Academy Building; or (iv) the failure of Renter to comply with, or to cause Renter Parties to comply with, any applicable law, ordinance, regulation, license or permit, or any provision of this Agreement, including the Policies and Procedures.

(d) **General.** The foregoing waiver, indemnification and defense obligations shall survive the expiration or termination of this Agreement and shall apply regardless of the active or passive negligence of any Academy Parties or City Parties, but shall not apply to a particular Academy Party or City Party to the extent a claim was proximately caused by the gross negligence or willful misconduct of that Academy Party or City Party.

14. **Notices.** All notices required or permitted under this Agreement shall be in writing and shall be deemed effectively given: (i) upon personal delivery to the party to be notified; (ii) when sent, if sent by electronic mail or facsimile and sent during the normal business hours of the recipient, or if not, then on the next business day; (iii) upon the earlier of actual receipt (as evidenced by the return receipt) or five (5) calendar days after having been sent by certified mail, return receipt requested, postage prepaid; or (iv) one (1) business day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt. All communications shall be sent to the Academy or Renter, as applicable, at the respective addresses specified in the Basic Terms or at such other address as either party may designate by written notice to the other party. The Academy shall not be required to give any notices to Client.

15. **Miscellaneous.**

(a) **Unenforceability.** If any provision of this Agreement shall be held to be unenforceable or invalid for any reason, it shall be adjusted rather than voided, if possible, in order to achieve the intent of the parties to the extent possible. In any event, all other provisions of this Agreement shall be deemed valid and enforceable to the fullest extent possible.

(b) **Attorneys' Fees.** If either party seeks to enforce its rights under this Agreement by legal proceedings or otherwise, the non-prevailing party shall pay all costs and expenses incurred by the prevailing party, including without limitation, all reasonable attorneys' fees and costs.

(c) **No Oral Agreements; Amendment.** There are no oral agreements between the Academy and Renter relating to the subject matter hereof, and this Agreement supersedes and cancels all prior negotiations, correspondence and agreements, if any, whether oral or written. This Agreement may be amended only by a written agreement executed by the Academy and Renter.

(d) **No Assignment.** Renter shall not assign or transfer its rights under this Agreement without the prior written consent of the Academy, which consent may be withheld in the Academy's sole and absolute discretion.

(e) **Authority.** If Renter is a corporation, partnership, limited liability company, unincorporated association, or other entity, each individual executing this Agreement on behalf of such entity represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of such entity.

(f) Force Majeure. If it is illegal or impracticable for the Academy to provide the Reserved Area or services for the Event due to fire, earthquake, strike or other labor disturbances, threat to public safety, governmental restrictions, or other circumstances beyond the Academy's reasonable control, the Academy may terminate this Agreement without liability to Renter.

(g) Interest. Any amount not paid by Renter when due shall bear interest from the due date until paid at twelve percent (12%) per annum.

(h) Interpretation. This Agreement shall be interpreted according to its fair meaning and not strictly for or against either party. The word "including" shall be deemed followed by the phrase "without limitation." Time is of the essence with respect to the performance of all of Renter's obligations under this Agreement. The remedies provided for in this Agreement are in addition to all other remedies available to the Academy at law or in equity.

(i) Governing Law: Jurisdiction and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of California. Each party stipulates and agrees that the State and Federal courts of the State of California shall have personal jurisdiction over each of them for the purpose of litigating any action or proceeding arising out of or in any way connected with this Agreement. Each party further stipulates that any action or proceeding arising out of or in any way connected with this Agreement shall be filed and litigated exclusively in the State and Federal courts located in the City and County of San Francisco. Each party hereby waives its right to assert the doctrine of forum non conveniens or to object to venue in the State and Federal courts of the City and County of San Francisco in any action or proceeding arising out of or in any way connected with this Agreement. The provisions of this Paragraph 15(i) shall survive the expiration or earlier termination of this Agreement.

(j) Exhibits. The following attached Exhibits are a part of this Agreement and are incorporated herein by this reference:

Exhibit A	Insurance Requirements
Exhibit B	Facility Rental Policies and Procedures
Exhibit C	Caterer and Vendor Rules and Procedures, including the Food Service Guidelines attached as Schedule 1

(k) Entire Agreement. This Agreement, including the Exhibits and Schedules attached hereto, is the entire agreement between the Academy and Renter with respect to the subject matter hereof.