

AGREEMENT

THIS AGREEMENT (the "Agreement") is made as of March 8, 2017, by and between the CITY OF MANHATTAN BEACH ("City"), a municipal corporation organized under state law with its principal offices at 1400 Highland Avenue, Manhattan Beach, California 90266, and AOS GROUP, LP, a California limited partnership, having its principal place of business at 1300 Quail Street, Suite 200, Newport Beach, California 92660 ("AOS" or "Organizer") (collectively referred to herein as the "Parties" and individually as a "Party").

RECITALS

- A. City has conducted an annual amateur and professional beach volleyball event entitled "The Manhattan Beach Open" (the "MBO") since 1960 and is the owner of the title "Manhattan Beach Open."
- B. Organizer is the owner and operator of the AVP Pro Beach Volleyball Tour ("AVP") and manages an annual schedule of volleyball events showcasing elite pro volleyball players.
- C. Each year during the term of this Agreement, Organizer shall apply to the City for a Coastal Development Permit to conduct a Pro-Am Men's and Women's Two Person Volleyball Tournament and a 4-Man Recreation Tournament and a Juniors Tournament.

NOW, THEREFORE, in consideration of the promises and mutual covenants and conditions hereinafter set forth, and intending to be legally bound, the Parties agree as follows:

I. THE MANHATTAN BEACH OPEN

During the term of this Agreement, City authorizes Organizer to conduct the annual MBO, the dates of which will be selected by Organizer in consultation with City. The 2017 MBO will be held during the period of August 17-20, with the amateur qualifying rounds being held on Thursday, August 17. For each year hereafter (in 2018 and 2019), the event will be held the third weekend in August unless both Parties agree to a date change in writing.

A) The agreed upon format for the MBO will be a Pro-Amateur format including both Men's and Women's Divisions with amateur qualifying rounds being played for entry into the professional rounds of the MBO. The playing rules for the MBO will be the AVP rules in effect at the time of the MBO, unless the event is an international event, which in such case shall be governed by the Federation International de Volleyball ("FIVB") international rules. The MBO will be a 32-team draw, and Organizer will have the right to save 24 seeded spots for men and 24 seeded spots for women for Organizer entries, unless the event is an international event, which in such case shall be governed by the FIVB international rules.

B) The title of the MBO is "The Manhattan Beach Open". Organizer will have the right to include AVP in the official title as long as it appears after the words "Manhattan Beach Open". Organizer specifically acknowledges and agrees that it will not release any information about the MBO to the public which refers to the MBO solely as "The [Primary Sponsor Name] Open." Notwithstanding the foregoing, Organizer will have the right to include one or more "Presented By" sponsors as part of the official title of the MBO so long as the "Presented By" title(s) appear after the words "Manhattan Beach Open" (e.g., "The Manhattan Beach Open Presented by [Sponsor] and [Primary Sponsor]").

C) City will not permit any other men's or women's volleyball event(s) paying more than \$30,000 in prize money (or other benefits equaling more than \$30,000 in value) within 90 days before or after the MBO, unless approved in writing by Organizer.

D) Subject to obtaining required permits and approval of City's Public Works Department, Organizer may erect: (i) bleachers for the MBO's center court, outside courts and seating on the pier and the pier head; and (ii) additional bleacher seating on the pier (a) behind the center court end zone bleachers and (b) on the pier head adjacent to the lifeguard tower. Organizer will ensure that accessways to and from the pier and beach be unobstructed. At least 90 days prior to each MBO, Organizer shall provide the number of requested bleacher seats for Public Works Department review and approval. In no event shall the number of seats exceed 6,500. Any changes to the foregoing in this Section shall require the mutually agreed upon written consent of the Parties and may not violate any required permits and the requirements of regulatory agencies with jurisdiction.

E) All amplified sound speakers will be placed facing to the west.

F) At least 75 percent of the total seating capacity at each court shall be available for the general public on a first-come, first-served basis, free of charge. The remaining seating capacity at each court (including bleachers, sand areas, and courtside boxes) may be paid seating or reserved. Organizer shall provide City with the total number of daily VIP Tickets scanned and sold, and include the total revenues within 25 days after the MBO.

G) VIP viewing and seating areas will be mutually agreed upon, in writing, at least 90 days prior to the event. Organizer shall provide City with 50 VIP passes and one courtside box daily.

H) The City Manager will have final authority on seating areas set up and operations subject to reasonable standards.

I) The Parties agree that all decisions of the City-appointed MBO Event Director will be final regarding any issues that involve compliance with this Agreement as well as any issues that directly or adversely impact the community. The Event Director will consult with a designated representative of Organizer, and it will be the goal of the Parties to reach mutual agreement on matters of event operation.

II. CITY RESPONSIBILITIES

A) City will provide an event director ("MBO Event Director") to oversee and monitor the total operation of the MBO especially in all matters pertaining to event liability and public safety.

B) City will retain the right to conduct, if it desires, a pre-tournament qualifying round, including non-Organizer players and retain the proceeds. However, City will grant Organizer permission to run these qualifying rounds. In that event, Organizer shall retain all the qualifying entry fees minus the permit fee (percentage of entry fee gross revenue) charged by the Los Angeles County Beaches & Harbors Department. From such qualifiers, Organizer shall take a minimum of eight Men's teams and eight Women's teams to play into the professional rounds of the MBO, unless the event is an international event, which in such case shall be governed by the FIVB international rules and mutually agreed upon by City and Organizer.

C) City will provide to Organizer any City services required for the MBO such as police, fire, etc. Expenses incurred by City for these services will be billed to Organizer at City's fully burdened rates. City and Organizer will meet to establish a budget for event costs 90 days prior to the event.

D) City will coordinate all necessary City, Los Angeles County and California Coastal Commission permits. Organizer will reimburse City for all necessary Los Angeles County permit fees. City will waive all necessary City permits fees, including, but not limited to fire permits, Coastal Commission permit, inspections and sound permit.

E) City will provide on-site parking spaces for television coverage equipment, Organizer equipment trucks and personnel. The number of spaces will be 71, consisting of all of the north and south lower parking lot, except for 14 spaces in the north lower parking lot (excluding the handicap spaces). City will also provide street parking on both sides on Manhattan Beach Boulevard below Ocean Drive. In addition, City will close Manhattan Beach Boulevard west of Ocean Drive to bike and vehicular traffic as deemed necessary by public safety personnel, and City will cause all bike riders to walk their bikes on Manhattan Beach Boulevard, west of Manhattan Avenue.

F) During each year's MBO, City will allow sponsors' display booths at the base of the pier and on the sand and will allow distribution of samples of their products during the MBO as long as such sampling does not include: (1) water (subject to agreement between City and Los Angeles County regarding approval of sales and sampling on the beach at the MBO) or (2) alcoholic and tobacco products and (3) as long as such sampling is not in conflict with the restrictions detailed under Section IV hereof.

G) City will allow Organizer to set up a Food Court and Merchandise Fair (which will include the right to sample or sell merchandise and/or other items or services, subject to the restrictions set forth herein) for City and other merchants. The

Food Court and Merchandise Fair shall comply with all applicable Los Angeles County Health Department codes. Organizer shall obtain all required permits, including a Los Angeles County Health Department permit. Organizer shall provide a breakdown of merchandise sales within 25 days after the event. Organizer shall pay to City (as a pass through to the County) the percentage of merchandise sales required by the Los Angeles County Beaches & Harbor permit.

H) City will allow the use of portable bleachers and the placement of a video board on the base of the pier or at a mutually agreed upon area.

I) City will provide waste services, including dumpsters and portable trash bins for the events.

J) City will coordinate ancillary events to be held in center court and raised platform above center court (if available) prior to and after tournament hours. City will provide set-up, cleaning services, and tear down of such ancillary events.

K) City will review and approve a traffic control plan.

L) City shall provide street sweeping of the parking lots prior to the commencement of the tournament set up and upon completion of the tear down.

III. ORGANIZER RESPONSIBILITIES

A) Organizer will not organize, sponsor, promote or lend its name to any additional beach volleyball events with a prize purse of more than \$50,000 to be played on the same dates as the MBO.

B) Organizer shall make its best efforts to guarantee the appearance of 15 of the top 20 available professional volleyball teams (barring injury) to participate in the MBO.

C) Bleacher load-in may occur only on the Thursday one week prior to the tournament. Bleachers and bleacher materials shall be stored and secured under the Manhattan Beach Pier with green screen and fencing. Organizer must comply with the timeline for the set up and tear down of the MBO set by the Coastal Development Permit. Set up for the MBO will begin on the Sunday before the tournament. The MBO, including the amateur qualifying rounds, will take place on Thursday, Friday, Saturday and Sunday of the agreed upon dates and breakdown will be completed by 6:00 p.m. on the Wednesday following the tournament.

D) Organizer will provide, at its own expense, all event production, including but not limited to, nets, sound equipment, volleyballs, scoreboards, announcer's platform, court siding, court lines, tents, booths, possible bleacher seating (to the extent authorized pursuant to Section I.D), and no more than six inflatables. Bleachers cannot exceed the 41.5-foot height limit set by the Coastal Development Permit. Organizer will transport the equipment to the site, set up the equipment in a cooperative and timely fashion, and at the close of the MBO, take down and remove the equipment. A

designated representative of Organizer must remain on-site during the entire tear-down process. Organizer must remove all equipment from the site and, to the reasonable satisfaction of City, sift, clean and level beach sand to remove debris beneath the surface no later than 6:00 p.m. on Wednesday, August 22, 2017. City reserves the right to determine limits on the use of the equipment as it pertains to City ordinances and will enforce all such ordinances for the protection of public health and safety. To ensure compliance with the date and time of removal, Organizer will provide City a \$10,000 security/clean-up deposit. The Parties will meet "on site" on the Wednesday after the MBO at approximately 4:00 p.m. to determine if the site, to include the beach and parking lots, has been reinstated to its original condition. The Parties agree that based on reasonable expectations, Organizer will materially correct any outstanding "clean-up" deficiency on a timely basis. If the deficiency is not corrected by the deadlines set forth below, Organizer will forfeit the deposit, or portions thereof, in accordance with the following schedule:

August 23, 2017	2:00 p.m.	\$3,000 plus City costs
August 24, 2017	2:00 p.m.	\$3,000 additional (\$6,000 total) plus City costs
August 25, 2017	5:00 p.m.	Balance of \$10,000 (\$10,000 maximum)

E) City will return the \$10,000 security/clean-up deposit or the remaining amount thereof if Organizer materially completes the clean-up by the deadlines above. City will return the deposit 30 days after the event. Equivalent deadline dates for future year's events shall be set by the Parties in writing prior to each year's MBO. Each future schedule shall be attached to this Agreement.

F) Organizer will provide all necessary funds, staff, equipment, and materials necessary to adequately promote and seek sponsorship for the MBO at no expense to City. Also, Organizer will provide a designated representative to consult as necessary with the City MBO Event Director regarding all facets of event operation.

G) Organizer will provide on-site tournament staff to handle sponsor relations, television liaison, and player mediations.

H) Organizer shall reimburse City for all its direct "in-house" services, including City personnel (including the MBO Event Director), services, and parking expenses for the event. An estimate of these costs will be provided to Organizer three months prior to each MBO. The projected City costs for the 2017 MBO is \$75,000, which will be paid to City 30 days in advance of the MBO. Actual City departmental costs and Los Angeles Beaches & Harbor permit fees will be itemized and billed to Organizer within 30 days of the completion of the MBO. Organizer shall pay City the amount of the invoice within 30 days of its receipt by Organizer. In addition, Organizer will deposit an additional \$10,000 cleaning deposit (see Section III.D), which is fully refundable upon event clean-up, except as stated in Section III.D.

I) Organizer shall reimburse City for any permits required from the County of Los Angeles and any direct cost of required permits, other than processing fees for City permits.

J) Unless otherwise expressly specified herein, the foregoing responsibilities of Organizer will be discharged at the expense of Organizer.

K) Organizer shall provide adequate access to the MBO location in a manner satisfactory to City, including access to designated parking spaces for people with disabilities. In addition, Organizer shall provide, at its sole cost, a free shuttle on the Saturday and Sunday of the tournament to transport spectators and other beachgoers from a remote parking lot specified in each year's Coastal Development Permit conditions to the downtown drop-off point (Von's supermarket). Up to two shuttle buses, each holding at least 50 persons, shall run continuously between the drop-off point and the remote parking lot each day between the hours of 7:00 a.m. and 7:00 p.m. One or both of the shuttle buses shall accommodate wheelchairs and handicapped persons. The "headway" time between shuttle service pick-ups shall be not more than 15 minutes.

L) Organizer shall provide a free bicycle parking area.

IV. MERCHANDISING, SPONSORSHIP AND LICENSING RIGHTS

A) City grants to Organizer a temporary exclusive license to the MBO consistent with the term of this Agreement which will include, without limitation, all merchandising of the MBO plus the right to obtain sponsors and advertisers, to produce and sell television, digital and new media programming, as well as to produce and sell MBO merchandise.

B) Organizer will be allowed to solicit potential sponsors and contract with sponsors for sponsor exposure at the MBO so long as the following guidelines are observed:

1) No sponsor will be solicited or accepted who manufactures, markets or are identified in any way with a feminine hygiene product, any disease control products or any product or service considered illegal under the laws of the United States or the State of California.

2) No sponsor will be solicited or accepted who produces any form of sexually related film or product or any and all products not deemed by City to be acceptable to public sensibilities or morals.

3) No sponsor will be solicited or accepted who produces any form of tobacco products.

4) These guidelines are not intended to exclude as sponsors those that are manufacturers of or distributors of distilled spirits, wines, wine products, beer or fast foods.

C) City will allow sign exposure areas at the MBO for sponsors, including but not limited to, customary court banners, booths, hospitality areas and bleacher banners. In addition, Organizer will have the right to have signage on the railings on the south side of the pier and on the railings along the bike path in the area of the MBO. Further, City will allow vehicles (e.g., official sponsor vehicles, watercraft, etc.) on the sand in connection with the MBO, as permitted by the Local Coastal Program.

V. PROMOTION OF THE MBO

A) Organizer will provide all funds, staff, equipment, and materials necessary to adequately promote and advertise the MBO. City will assume no advertising obligation except as specifically provided herein. City will promote the MBO by cooperating with the press and agreeing to place posters in City-approved locations and assisting in the placement of street and pole banners. Organizer will provide all publicity and promotional materials.

B) City will permit Organizer to advertise and promote the MBO within the City for a minimum of four weeks prior to the tournament. This commitment will include the following:

1) Organizer will provide street banners to City at least 40 days prior to the MBO. City will schedule and hang street banners at City-approved locations commencing 30 days prior to the MBO. City will remove street banners upon completion of the event.

2) Organizer will have the exclusive right to hang pole banners in specific locations approved by City commencing two weeks prior to the MBO. A list of specific locations will be submitted to City at least 90 days prior to the MBO.

3) All street and pole banner designs must be approved by City. Organizer will be responsible for the costs of hanging and removing all such banners. City will not charge any permit fees in connection with such banners.

4) Organizer may provide City storefront posters, which will be distributed to local businesses and City facilities by City. In addition, Organizer will be prohibited from handing out fliers, posters, index cards, and any other promotional material in the downtown area. In return, to the full extent allowed by law, City will prohibit other non-event sponsors of Organizer from distributing product or promotional literature in the downtown area. In addition, Organizer will have the right to issue local newspaper releases.

5) All street and pole banner designs and MBO artwork must be pre-approved by City.

C) All support and point-of-purchase materials will list the MBO and all event posters, counter cards and schedules will mention City.

D) City will acknowledge Organizer in any local television programming that highlights upcoming events.

E) City will give the MBO preferred placement on its web site, if possible.

F) City will include MBO artwork in all marketing materials, including the quarterly brochure, City website, and social media. All artwork will be provided by Organizer.

VI. MEDIA AND DISTRIBUTION

Organizer will have the exclusive right to solicit and negotiate all radio, film, digital, and television broadcast agreements.

A) A live broadcast by the sponsor radio station and filming of the MBO will be allowed at the MBO. All radio broadcast and/or filming set-ups are to be approved and licensed by the proper City representatives who will be available and on hand at the time of set-up. Approval will take into account the desire of the Parties to allow a first quality broadcast and the technical needs of the broadcasters.

B) Organizer will provide City with a DVD and digital "line cut" of the finished content and edit of the MBO broadcast and web cast, within one month after the end of the tournament (or as soon as available).

C) City and Organizer will own all rights to all radio, photo, digital content, and television product of the MBO. City will be afforded the right to use the digital, photo and television productions as long as they are used for non-commercial purposes such as historical documentation and promotion of the MBO. Organizer agrees that all such usage of content from the MBO will be complimentary and positive to City, the MBO and the citizens of City. In all cases, City has the right to review and approve all such usage of content generated by the MBO (approval of such usage not to be unreasonably withheld).

VII. MBO MERCHANDISE

A) City will not prohibit the sale of domestic series or MBO-related or event merchandise, sponsor apparel, or volleyballs at the base of the pier or on the sand.

B) The MBO-specific apparel and non-consumable souvenir merchandise will be developed by Organizer. Organizer will have the exclusive right to create, market and license the MBO-specific merchandise. All MBO-specific merchandise will comply with the title requirements set forth herein and as follows:

1) Sales and distribution of the MBO-specific merchandise plan shall be subject to approval by City.

2) City shall have input and approval of all designs and products Stock Keeping Units (SKUs).

3) Organizer to provide a list of product SKUs for approval by City, including but not limited to, t-shirts, sweatshirts, hats, shorts, volleyballs, toys, equipment, etc.

C) No other consumables or non-consumables will be sold or given away at the site except as specified in this Agreement or as approved in writing by City prior to the MBO.

VIII. PRIZE MONEY

Organizer shall provide for a minimum \$75,000 in prize money for each of the Men's and Women's Open Divisions, for a total of \$150,000. Organizer shall present the prize money levels to City 120 days prior to the commencement of the tournament in any given year. The prize money levels for each year of the MBO shall not be less than \$150,000 (i.e., \$75,000 for each gender).

IX. PREFERRED VENDORS

In good faith, the Organizer will use City preferred vendors to include local Manhattan Beach based businesses, CSC security services, IMC, etc. A list of preferred vendors will be provided by City to Organizer.

X. TERM

This Agreement will be effective for a period of three years commencing with the 2017 Manhattan Beach Open and extending through the 2019 Manhattan Beach Open.

XI. RENEWAL

Provided Organizer is not in default of its obligations hereunder, City agrees that before granting any rights to a third party for the exclusive license to the MBO consistent with the terms of this Agreement which will include, without limitation, the production of a pro beach volleyball tournament entitled the "The Manhattan Beach Open," all merchandising of the MBO plus the right to obtain sponsors and advertisers, to produce and sell television, digital and new media programming, as well as to produce and sell MBO merchandise in 2020 – 2022, if held, City will first negotiate in good faith with Organizer during a 30-day period as designated in writing by City. If City and Organizer fail to reach an agreement during that 30-day period, Organizer will have the right within 14 days thereafter to submit to City in writing the terms and conditions (the "Final Offer") Organizer is willing to offer or accept for such rights as Organizer of the 2020 – 2022 Manhattan Beach Open.

XII. FORCE MAJEURE

If in any year during the term hereof an entire MBO cannot take place as planned due to inclement weather, the failure of any permitting agency to timely issue a necessary permit, or other force majeure outside the Parties' reasonable control, such failure to hold the affected MBO on its originally scheduled date will not be treated as a breach of

this Agreement by either Party and each Party will use their commercially reasonable efforts to reschedule the MBO on a mutually agreeable date. If no substitute date is set within 90 days of the force majeure event: (i) each Party will be responsible for its own expenses with respect to the affected MBO, and (ii) both Parties will have no further obligations to each other with regard to the affected MBO.

XIII. DEFAULT

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

1) either Party makes any material misrepresentation or materially breaches any warranty made herein and fails to cure such breach within 14 days of its receipt of the written notice of such breach provided such breach is curable;

2) either Party commences a voluntary case or other proceeding seeking liquidation, reorganization or other relief under any bankruptcy, insolvency or similar law, or will make a general assignment for the benefit of creditors, or will have an involuntary case or other proceeding instituted against it seeking similar relief; or

3) either Party otherwise fails to perform or observe any other material covenant or material condition set forth herein and such failure continues unremedied for a period of 14 days after the receipt of written notice thereof from the non-defaulting Party outlining the default and method of cure.

B) Upon the occurrence of an Event of Default, and at any time thereafter so long as the same is continuing, the non-defaulting Party may declare, at its option, this Agreement to be in default and (i) may immediately terminate this Agreement without any liability whatsoever other than liabilities accrued to such date by giving the defaulting Party written notice of termination; (ii) may seek enforcement by appropriate court action of the terms hereof and recover damages for the breach hereof; (iii) may exercise any other right or remedy available to it under law or in equity; or (iv) may seek any permitted combination of such remedies. No remedy is intended to be exclusive but each will be cumulative, and the exercise of any such remedy will not preclude the simultaneous or later exercise of any other remedy.

XIV. REPRESENTATIONS AND WARRANTIES

A) City represents and warrants to AOS that (i) City has the full right and authority to enter into and perform its obligations under this Agreement; (ii) the naming, media and licensing rights of the "Manhattan Beach Open" granted to AOS are owned by City and it is City's good faith belief that the use of such rights by Organizer will not violate the rights of any third party and the full right to exercise the same have in no way been limited, diminished, or impaired, notwithstanding the AVP Pro Volleyball Tour Inc.'s purported registration of the trademark in January 13, 2009; and (iii) the

execution, delivery and performance of this Agreement will not violate the provision of any agreement to which City is a party or by which it is bound.

B) AOS represents and warrants to City that (i) it has the full right and authority to enter into and perform its obligations under this Agreement; (ii) the rights granted to City hereunder will not violate the rights of any third party and the full right to exercise the same have in no way been limited, diminished, or impaired; (iii) the execution, delivery and performance of this Agreement will not violate the provision of any agreement to which either is a party or by which they may be bound; and (iv) it is fully aware of the AVP's purported registration of the Manhattan Beach Open trademark. Should any purported registration of the MBO trademark affect either Party's ability to fulfill its duties and deliverables as outlined in this Agreement, both Parties agree that such inability to fulfill such duties and deliverables will not be considered a material breach of this Agreement and will be remedied by mutual agreement reached through the on-going discussions between Organizer and City.

XV. USE OF TRADEMARKS OR SERVICE MARKS

City hereby grants a limited license to AOS, for the 2017 through 2019 MBO tournaments only, to use the name "Manhattan Beach Open." City expressly reserves to itself all other rights to use the name "Manhattan Beach Open" which the Parties hereto acknowledge is the sole property of City. Except as expressly provided herein, no Party will have the right to use in any way the corporate or trade name, trademark(s), service mark(s), logo(s), or other identification of the other Party without its prior written consent.

XVI. CONTINGENCIES

This Agreement is contingent upon issuance of all necessary governmental approvals, including but not limited to, all required City of Manhattan Beach and Los Angeles County, or Coastal Commission (if any) approvals and environmental review (if any) required under the California Environmental Quality Act ("CEQA").

XVII. INSURANCE

A) Commencement. AOS will not commence activities under this Agreement until it has obtained insurance as approved by City. Before beginning any activities hereunder, during the entire period of this Agreement, for any extensions hereto, and for periods after the end of this Agreement as indicated below, AOS will have and maintain in place, all of the insurance coverages required by this Section XVII. AOS's insurance will comply with all items specified by this Agreement. Any subcontractors of AOS will be subject to all of the requirements of this Section XVII, and AOS will be responsible for obtaining evidence of insurance from each subcontractor and provide it to City before the subcontractor commences work.

All insurance policies used to satisfy the requirements imposed hereunder will be issued by insurers authorized to do business in the State of California.

B) Coverages; Limits and Policy Requirements. AOS will maintain the types of coverages and limits indicated below:

1) **COMMERCIAL GENERAL LIABILITY INSURANCE** - a policy for occurrence coverage, including all coverages provided by and to the extent afforded by Insurance Services Office Form CG 0001, ed. 11/88 or 11/85, with no special limitations affecting City. The limit for all coverages under this policy will be no less than Two Million Dollars (\$2,000,000) per occurrence. City, its employees, officials and agents, will be added as additional insureds by endorsement to the policy. The insurer will provide City with a certificate evidencing such insurance, and such certificate will state that the insurer will not cancel or materially modify such insurance policies with notice to be delivered in accordance with the policy provisions for any cancellation, non-renewal or material change in coverage. The policy will contain no provision that would make this policy excess over, contributory with, or invalidated by the existence of any insurance, self-insurance or other risk financing program maintained by City. In the event the policy contains such an "other insurance" clause, the policy will be modified by endorsement to show that it is primary for any claim arising out of the work performed under this Agreement. The City of Manhattan Beach Insurance Endorsement Form No. 1 (General Liability) must be executed by the applicable insurance underwriters.

2) **COMMERCIAL AUTO LIABILITY INSURANCE** - a policy including all coverages provided by and to the extent afforded by Insurance Services Office form CA 0001, ed. 12/93, including Symbol I (any auto) with no special limitations affecting City. The limit for bodily injury and property damage liability will be no less than One Million Dollars (\$1,000,000) per accident. City, its employees, officials and agents, will be added as additional insureds by endorsement to the policy. The insurer will provide City with a certificate evidencing such insurance and such certificate will state that the insurer will not cancel or materially modify such insurance policies with notice to be delivered in accordance with the policy provisions of any cancellation, non-renewal or material change in coverage. The policy will contain no provision that would make this policy excess over, contributory with, or invalidated by the existence of any insurance, self-insurance or other risk financing program maintained by City. In the event the policy contains such an "other insurance" clause, the policy will be modified by endorsement to show that it is primary for any claim arising out of the work performed under this Agreement. The City of Manhattan Beach Insurance Endorsement Form No. 2 (Auto), or other form approved by the City's Risk Manager, must be executed by the applicable insurance underwriters.

3) **WORKERS' COMPENSATION INSURANCE** - a policy which meets all statutory benefit requirements of the Labor Code, or other applicable law, of the State of California. Employer's Liability Insurance will have a minimum limit of not less than one million dollars (\$1,000,000) per claim. The policy will contain, or be endorsed to include a waiver of subrogation in favor of City.

C) Additional Requirements. The procuring of such required policies of insurance will not be construed to limit the liability of AOS hereunder, or to fulfill the indemnification provisions and requirements of this Agreement. There will be no

recourse against City for payment of premiums or other amounts with respect thereto. City will notify AOS in writing of changes in the insurance requirements. If AOS does not deposit certificates evidencing acceptable insurance coverage policies with City incorporating such changes within 60 days of receipt of such notice, AOS will be deemed to be in default hereunder. Any deductibles or self-insured retentions must be declared to and approved by City.

D) Verification of Compliance. AOS will furnish City with a certificate evidencing coverage required by this Agreement.

XVIII. INDEMNIFICATION

AOS agrees to indemnify, defend, and hold harmless City and its boards, officers, agents, attorneys and employees from any and all claims, liabilities, losses, expenses, or damages of any nature (including attorneys' fees and costs) arising out of, or in any way connected with performance of this Agreement by AOS, its agents, officers, employees, subcontractors or independent contractor(s) hired by AOS, except such loss or damage which is caused by the sole active negligence or willful misconduct of City. This indemnity will apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by AOS.

City agrees to indemnify, defend, and hold harmless AOS and its boards, officers, agents, attorneys and employees from any and all claims, liabilities, losses, expenses, or damages of any nature (including attorneys' fees and costs) arising out of the performance of the obligations specified in this Agreement by City, City's agents, officers, employees, subcontractors, or independent contractor(s) hired by City. This indemnity will apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by City.

XIX. INDEPENDENT CONTRACTOR/POLICE POWER

City and AOS will each be and act as independent contractors. Each Party acknowledges and agrees that it neither has nor will give the appearance or impression of having any legal authority to bind or commit the other Party in any way other than as authorized by this Agreement. Nothing in this Agreement will be construed to create a joint venture between the Parties or to obligate any other Party for debts or obligations incurred by the other Party in the performance of this Agreement.

Nothing in this Agreement shall be construed as a limitation on City's exercise of its police power, including, but not limited to, the exercise of its discretion in consideration of any permit application required for the event contemplated by this Agreement.

XX. FAILURE TO OBJECT NOT A WAIVER

The failure of any Party to this Agreement to object to or to take affirmative action with respect to any conduct of the other Party which is in violation of the terms hereof will not

be construed as a waiver thereof, nor of any future breach of subsequent wrongful conduct.

XXI. CONFIDENTIAL INFORMATION

Each Party acknowledges that confidential information may be disclosed to the other Party during the course of this Agreement, including but not limited to this Agreement and the terms hereof, all communications and negotiations between the parties and/or third parties, emails, financial documents and any other information a Party may have learned about the other Party. Each Party shall take reasonable steps, at least substantially equivalent to the steps it takes to protect its own proprietary information (at all times executing at least reasonable care), during the period this Agreement is in effect, three years following expiration or termination of this Agreement, to prevent the duplication or disclosure of confidential information to other than by or to its employees or agents who must have access to the confidential information to perform such Party's obligations hereunder. The foregoing notwithstanding, each Party may disclose such terms as may be required by law, including but not limited to the California Public Records Act. The parties will not make any statements, publicly or privately, which disparages or would reasonably be expected to disparage the other Party or any of its employees, officers or directors.

XXII. NOTICES

All notices required or permitted hereunder will be deemed duly given on the date sent by certified mail, postage prepaid, addressed to the Parties as follows:

If to AOS:

AOS Group, LP
1300 Quail Street, Suite 200
Newport Beach, CA 92660

Telephone: (949) 679-3599
Email: dsun@avp.com

If to City:

City of Manhattan Beach
1400 Highland Avenue
Manhattan Beach, CA 90266
Attn: Director of Parks & Recreation

cc: City Attorney

XXIII. LIMITATION ON ASSIGNMENT

A) The rights and obligations under this Agreement may be assigned or delegated by the Parties only with the prior written consent of the other Party. Any attempted assignment or delegation, without the prior written consent of the other Party will be voidable at the discretion of the non-assigning Party.

B) This Agreement and all of the terms and provisions hereof will be binding upon and will insure to the benefit of the Parties hereto and their respective successors and assigns.

XXIV. APPROVAL

Whenever approval, consent, information, or data is herein required of either or both Parties, the same will not be unreasonably or arbitrarily delayed or withheld.

XXV. COMPLIANCE WITH THE LAW

Should it be determined that this Agreement or any provision hereof violates any federal, state, or local law or regulation, then the Parties will promptly modify this Agreement to the extent necessary to bring about compliance with such law and/or regulation; provided, however, that if such modification would cause this Agreement to fail in its essential purpose or purposes, it will be deemed cancelled by mutual agreement of the Parties and neither Party will have any further obligations or liabilities with respect to this Agreement.

XXVI. SURVIVAL

In the event that this Agreement is terminated for any reason during the term, Sections VI, VII, XVII, and XVIII will survive the termination of this Agreement in perpetuity.

XXVII. ENTIRE AGREEMENT

This Agreement constitutes the entire understanding between the Parties with respect to the subject matter hereof and supersedes any and all prior understandings or agreements in regard hereto. This Agreement cannot be altered or modified except by an agreement in writing signed by both Parties.

XXVIII. GOVERNING LAW/VENUE

The interpretation and implementation of this Agreement shall be governed by the domestic law of the State of California. Any litigation concerning this Agreement shall take place in the superior or federal district court with geographic jurisdiction over the City of Manhattan Beach.

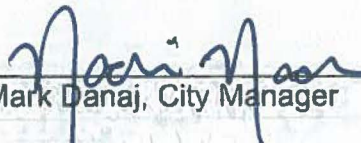
XXIX. CORPORATE AUTHORITY

Each person executing this Agreement on behalf of his or her Party warrants that he or she is duly authorized to execute this Agreement on behalf of that Party and that by such execution, that Party is formally bound to the provisions of this Agreement.

EXECUTED on the date first written above at Manhattan Beach, California.

CITY OF MANHATTAN BEACH,
a California municipal corporation

AOS GROUP, LP,
a California limited partnership

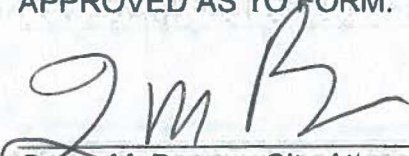
for 
Mark Danaj, City Manager


Donald Sun, Managing Partner

ATTEST:

 8-17-17
Liza Tamura, City Clerk

APPROVED AS TO FORM:


Quinn M. Barrow, City Attorney

APPROVED AS TO CONTENT:


Mark Leyman, Director of Parks and
Recreation