

## MASTER SPONSORSHIP AGREEMENT

This Master Sponsorship Agreement (this "*Agreement*") between Meijer Great Lakes Limited Partnership, 2929 Walker Ave., NW, Grand Rapids, Michigan 49544-9428 ("*Meijer*"), and City of Waukesha, 1900 Aviation Drive, Waukesha, WI 53188 ("*Promoter*"), is dated as of March 18, 2109 ("*Effective Date*").

Meijer desires to sponsor one or more of Promoter's events (each, an "*Event*"), and Promoter desires to accept and recognize Meijer's sponsorship of the Event(s) under the terms and conditions of this Agreement ("*Sponsorship*").

### AGREEMENT

In consideration of the foregoing facts and the mutual covenants contained herein, Meijer and Promoter agree:

1. **Sponsorship.** Any Sponsorship will be described in a statement of benefits, addendum, or other agreed upon document (an "*Addendum*"), which will be incorporated by reference herein. Each Addendum will contain the following: a reference to the Agreement; a description of the specific Event(s) being sponsored by Meijer; the term of the sponsorship for the specific Event(s); the sponsorship fee to be paid to Promoter (the "*Sponsorship Fee*"); and the particular Sponsorship elements, assets, promotional consideration, activities, and events furnished to Meijer by Promoter as part of the Sponsorship (collectively, the "*Sponsorship Elements*"). Addendums must be executed by both parties to be effective. Any terms not set forth in the Agreement or in a signed Addendum will be of no effect. Notwithstanding the foregoing, any Sponsorship between Meijer and Promoter during the Term that is not documented in an Addendum or another written agreement between the parties will be governed by the terms of this Agreement.
2. **Promoter's Obligations.** Promoter has the following obligations in connection with the Sponsorship:
  - (a) **Invoicing; Payment Terms.** Promoter agrees to participate, at its own expense, in Meijer's online invoicing system as instructed in the Vendor Requirements and Reference Guide located on <https://www.meijervendor.net> ("*System*") and will only electronically invoice Meijer through the System. Meijer agrees to pay all undisputed invoices within 45 days after the date that each invoice is electronically posted to the System. If Promoter submits a paper invoice, Promoter agrees that Meijer may charge or debit Promoter a reasonable administrative fee from any such paper invoice to partially compensate Meijer for manually processing Promoter's invoice.
  - (b) **Event Responsibilities.** Promoter has the sole responsibility and authority to organize and conduct the Event(s), including but not limited to the scheduling, layout, staffing, security and public protection, obtaining permits, and supervision of Event staff, participants, and spectators.

### 3. Term; Termination.

(a) **Term.** Unless terminated sooner as provided below, the term of this Agreement will expire three years from the Effective Date (the "*Initial Term*"). As outlined in Section 1, the details for any Event(s), including term and Sponsorship Fee, will be set forth in the Addendum for such Event, and an Addendum may contain a shorter term than this Agreement. Upon expiration of the Initial Term, the Agreement will automatically renew for consecutive renewal terms of one year (each, a "*Renewal Term*") unless (i) terminated as provided below or (ii) by giving the other party written notice of non-renewal not less than thirty (30) days prior to the expiration of the Initial Term or any Renewal Term. The Initial Term and any Renewal Term may be collectively referred to in the Agreement as the "*Term*."

#### (b) Termination.

(i) **For Cause with Right to Cure.** Either party may terminate the Agreement or any Addendum at any time as a result of the other party's breach of any provision of the Agreement or any Addendum by sending such party written notice of termination describing how the party breached the Agreement. If the breach is not cured within 10 days after receipt of the written notice, the Agreement will then terminate.

(ii) **For Cause with No Right to Cure.** Either party may immediately terminate the Agreement or any Addendum upon prior written notice to the other party if: (a) the other party ceases to function as a going concern; (b) a receiver for either party is appointed or applied for; (c) a petition under any bankruptcy or insolvency laws or any state receivership law is filed by or against either party; (d) either party makes an assignment for the benefit of creditors; (e) any federal or state legal or governing authority initiates any civil or criminal action or investigation against Promoter for the possible violation or alleged violation of any laws applicable to its operations; or (f) Promoter refuses, fails, or is unable to properly perform its obligations in a timely fashion.

(iii) **Effect of Termination.** Unless otherwise agreed to in writing, upon termination of the Agreement, all Addendums then in effect will be terminated with the Agreement. Upon termination of the Agreement or any individual Addendum, Promoter will refund to Meijer an amount equal to the value of the Sponsorship Elements not received by Meijer prior to the date of termination.

4. **Indemnification.** To the fullest extent permitted by law, Promoter shall defend, indemnify, and hold harmless Meijer and its affiliates, and their officers, directors, shareholders, partners, employees and agents (collectively "*Related Parties*") from and against any and all liability, loss, claims, demands, fines, penalties, suits, costs, fees and expenses (including the reasonable actual fees and expenses of attorneys and expert witnesses), including, but not limited to, those actually or allegedly arising out of the bodily injury to, or sickness or death of, any person, or property damage or destruction (including loss of use), which may be imposed upon, incurred by or asserted against Meijer or its Related Parties allegedly or actually arising out of or resulting from (i) Promoter's breach of this Agreement; (ii) the negligent act or omission or willful misconduct of Promoter or any agent, employee, or contractor of Promoter in its performance hereunder, including, but not limited to, the marketing, promotion, operation, supervision, management, or safety of the Events; (iii) the Events; or (iv) Meijer's

Sponsorship of the Events, including but not limited to, the Sponsorship Elements. Promoter's obligation to indemnify Meijer as set forth herein shall not extend to liability caused by the sole negligent act, sole negligent omission or willful misconduct of Meijer, but such indemnity obligation shall include, without limitation, (aa) claims of personal injury, including death, and property damage or loss incurred by Meijer employees, vendors, customers, and/or their families while participating in the Events; and (bb) claims of Promoter's employees, agents, and contractors (including claims arising from the presence of such persons on or about Meijer's premises).

## 5. Insurance.

(a) **Required Coverages.** Promoter must keep in force, at its sole expense, insurance coverage covering claims arising out of Promoter's obligations under this Agreement, including but not limited to the following insurance coverages ("*Required Coverages*"):

- Commercial General Liability ("*CGL*"), including premises/operations, independent contractors, broad form property damage, personal/advertising injury, blanket contractual, fire and explosion legal liability, explosion/collapse/underground hazard coverage, and products/completed operations coverage, in an amount not less than Two Million Dollars (\$2,000,000) per occurrence and Three Million Dollars (\$3,000,000) in the aggregate. This CGL policy (i) must be maintained for 3 years following expiration or termination of this Agreement, and (ii) may not include any exclusions or endorsements that limit coverage for claims from incidents that are also covered by workers' compensation and/or employer liability insurance. Meijer Great Lakes Limited Partnership and its affiliates must be named as additional insureds on an endorsement acceptable to Meijer that extends coverage to contractual liability. Meijer agrees this CGL Policy may be maintained by a combination of the Promoter's base policy (which will be no less than US\$1,000,000) and an umbrella policy, provided that such umbrella policy meets all the requirements of this Section 5.
- If vehicles will be used in conjunction with the Events, Automobile Liability coverage for all owned, hired and non-owned vehicles with a combined single limit not less than US\$1,000,000.
- Workers' Compensation coverage in accordance with all applicable laws and regulations.

(b) **Policy Requirements.** Required Coverages must: (1) be an occurrence policy and not a claims-made policy; (2) not contain a self-insurance retention; if it contains a deductible, in the event of a claim, Meijer will not be responsible for satisfying the deductible; (3) not contain any exclusion for punitive damages where allowable by applicable law; (4) contain a specific provision that defense costs are supplemental and do not erode or exhaust the policy limits; (5) contain a specific provision waiving any and all rights of recovery, contribution, and/or subrogation against Meijer, its parents and affiliates and subsidiaries, and all of their respective directors, offices, employees, agents, and insurers; and (6) cover claims brought in the US.

(c) **Required Policy Certificates.** Evidence of all Required Coverages must be promptly sent to Meijer's insurance consultant at [meijercerts@vanwykcorp.com](mailto:meijercerts@vanwykcorp.com). Within 10 days of Meijer's request, Promoter will provide Meijer copies of the policies for the Required Coverages. Insurance certificates must contain a provision that coverages evidenced will not be adversely modified or

canceled without providing at least ten (10) days' prior written notice to Meijer's insurance consultant at [meijercerts@vanwykcorp.com](mailto:meijercerts@vanwykcorp.com). All Required Coverage must afford primary coverage and be underwritten by an insurance carrier with an A.M. Best rating of "A-" or better. If Promoter fails to provide proof of insurance, Meijer will have the right (but not the obligation) to (i) terminate this Agreement, (ii) procure the Required Insurance and charge Promoter for cost incurred, or (iii) stop or delay any order processing or payment until proof of insurance is received. Such termination, procurement, stop, or delay will not change any pricing discounts or be grounds for a cause of action against Meijer. Meijer's failure to exercise its rights under this paragraph or its acceptance of an endorsement not compliant with this Section 5 or failure to identify non-complying coverage will not be construed as a waiver of Promoter's obligations under this Section 5.

- (d) **Effect on Indemnity Obligations.** The indemnity obligations and direct liability to Meijer specified in this Agreement will not be negated or reduced because Promoter has maintained the Required Coverages or because Promoter's insurance carrier denies insurance coverage for or refuses to defend a claim for which Promoter is required to indemnify Meijer under this Agreement.
- (e) **Promoter's Property.** Promoter must insure its own equipment and other personal property; Promoter releases Meijer from any loss, theft, damage, or destruction to Promoter's equipment or other personal property Promoter brings onto Meijer owned property in connection with the Sponsorship.

## 6. Confidentiality; Use of Trademark or Trade Name.

- (a) **Confidentiality.** "*Confidential Information*" means information disclosed by Meijer that (a) is not publicly available, or (b) Promoter should reasonably understand to be confidential, including, but not limited to all data provided by Meijer to Promoter that is necessary for Promoter to fulfill its obligations under this Agreement. Promoter must not disclose Meijer's Confidential Information to third parties nor use Meijer's Confidential Information for any purpose other than as permitted by this Agreement. In the event Promoter is required to disclose Confidential Information under the law, including, but not limited to, an order by a court or governmental agency, Promoter may do so but only to the extent necessary to comply with such requirement; however, Promoter must provide prompt notice of such requirement to Meijer so that Meijer may seek an appropriate protective order or other appropriate remedy. The confidentiality obligations of this Section will continue for as long as the Confidential Information remains confidential.
- (b) **Use of Trademark or Trade Name.** During the Term of this Agreement, each party shall have the right to use the trade name, trademark, service mark, brand names, and logos (collectively, "*Identification*") of the other for the purpose of performing the activities specified in this Agreement, provided the use of such Identification complies with the policies and guidelines of the party possessing such Identification and provided such Identification is used with the proper trademark notices and in its full and proper form. Should either party wish to use any other proprietary materials of the other in connection with this Agreement, such party shall send a written request to the party owning such proprietary material. In all circumstances, each party shall seek written approval prior to its use of the other party's Identification. Upon termination of this Agreement for any reason, both parties will cease such use of the other party's

Identification. Without limiting generality of the foregoing, Promoter shall not use Meijer Identification in a domain name or mobile application.

7. **Force Majeure.** Neither party is responsible for fires, strikes, civil disorders, severe inclement weather, acts or threats of terrorism, acts of war, or other casualties or events beyond its reasonable control ("*Force Majeure Event*"). If a Force Majeure Event occurs and Promoter must cancel an Event or is unable to fulfill its obligations at the same time specified, Promoter will reschedule the Event at its sole discretion. If a substitute date cannot be arranged by Promoter, Promoter will refund to Meijer an amount equal to the value of the Sponsorship Elements not received by Meijer prior to the date of cancellation or provide a suitable "make good" proposal approved by Meijer. Meijer's total liability for the sponsorship of the Event or Events will not exceed the total Sponsorship Fees paid for that Event or Events.

8. **Miscellaneous.**

(a) **Fees; Expenses.** If the Sponsorship Fee includes Meijer gift cards, unless otherwise set forth in the applicable Addendum, gift card increments, delivery method and timing is to be determined by Meijer. Except as otherwise expressly provided in this Agreement, each party will be responsible for its own expenses relating to its obligations hereunder.

(b) **Assignment.** Neither party will assign, transfer, or subcontract this Agreement or any of their obligations without the prior written consent of the other, except that if a party merges or consolidates with or into or transfers substantially all of its assets to another entity, this Agreement may be assigned to such successor and it will be binding upon and inure to the successor's benefit. Any assignment without such written consent will be void.

(c) **Integration; Governing Order; Amendment.** This Agreement including any Exhibits represents the entire and integrated agreement between Meijer and Promoter and supersedes all prior negotiations, representations or agreements, either written or oral. In the event of any conflict between the terms of any of this Agreement and an Addendum, the terms of this Agreement will control. This Agreement may be amended only by written instrument and signed by both parties.

(d) **Notices.** Notices must be in writing and sent by certified mail or by a national overnight courier providing evidence of delivery (such as Federal Express, UPS, DHL, or Airborne) to the addresses in the caption. Any such notices will be deemed to have been given on the day of receipt (or refusal to accept delivery). All notices to Meijer must be sent to the attention of the Sr. Director of Community Partnerships and Giving at Meijer's address stated above, with a copy emailed to [contractreview@meijer.com](mailto:contractreview@meijer.com). All notices to Promoter will be sent to the address first stated above.

(e) **No Partnership.** The relationship between Meijer and Promoter is that of an independent contractor. Meijer does not, in any way or for any purpose, become a partner, joint venture, joint employer, fiduciary or a member of a joint enterprise with Promoter. Promoter has no authority to bind or commit Meijer to any obligation with any third party.

(f) **Legal Compliance; Governing Law; Disputes.** Each party must comply with all Federal, State, and local laws, ordinances, codes, rules, and regulations in performing their obligations under this

Agreement. This Agreement and all matters arising directly or indirectly from it, including tort claims are governed by the internal laws of Michigan, without regard to its conflict-of-laws provisions. For any legal action arising out of this Agreement, the parties (i) agree that the courts seated in Kent County, Michigan, USA, have exclusive jurisdiction; and (ii) waive trial by jury.

(g) **Publicity.** Promoter will not issue or release any public announcement, statement, press release or marketing materials relating to this Agreement without Meijer's prior written consent. To the extent that this Section conflicts with Section 6(b), Section 6(b) will control.

(h) **Waiver; Enforcement; Survival.** No waiver of any term of this Agreement constitutes a waiver of any other provision, whether similar or dissimilar. No waiver of any term constitutes a continuing waiver of that term. No waiver is binding unless signed in writing by the waiving party. No failure of Meijer to insist upon strict compliance by Promoter with any provision of this Agreement will operate to release, discharge, modify, change or affect any of Promoter's obligations. Sections 4, 5, 6, 7 and 8 of this Agreement will survive the expiration or termination of this Agreement.

Duly authorized representatives of each of the parties have executed this Agreement.

**Meijer:**  
Meijer Great Lakes Limited Partnership  
By Meijer Group, Inc., its General Partner

**Promoter:**  
City of Waukesha

cc By: Catherine Cooper  
Name: Catherine Cooper  
Title: SED

By: Shawn N. Reilly  
Name: Shawn N. Reilly  
Title: Mayor

Eric Kyzek, Clerk 4-9-19