



Site Use/Vendor Agreement

This Agreement is made as of _____, 20____, by and between **Burke Mountain Event Company**, (“Owner”) and _____ (“Vendor”). .

WHEREAS, the Vendor would like to utilize Owner’s spaces and facilities (“Premises”) for the below named event and related activities (hereinafter “Activities”), and whereas Owner would like to permit such use of its Premises provided that it does not create additional liabilities for Owner, and whereas Vendor has all applicable licenses and permits to conduct its operations, and whereas Vendor has liability insurance covering its activities, and whereas the parties would like to confirm the use thereof by Owner and other terms and conditions with respect to such use by the Vendor;

NOW THEREFORE, for good and valuable consideration, receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. **Premises:** Owner hereby permits Vendor to use the Premises, subject to and with the benefit of the terms, covenants, conditions and provisions of this Agreement.
2. **Vendor Obligations:** The subsections below address the obligations of the Vendor for the purposes of this agreement as follows:
 - (a) Vendor agrees to remit a vending fee for participation in the amount of \$ _____ (US Currency). The fee must be paid by cash or certified check, made payable to Burke Mountain Event Company, and must be paid prior to the event date and before the Vendor will be allowed to set-up. **INITIAL HERE _____**
 - (b) Vendor agrees to be set up pursuant to the Event Vendor Plan (See Attachment A) on the date of the event and ready by ____:____AM/PM.
INITIAL HERE _____
 - (c) Vendor agrees to have all non-essential vehicles out of the event area no later than ____:____AM/PM. Vendor agrees to park all vehicles and unnecessary equipment in designated public parking areas once set up is complete.
INITIAL HERE _____
 - (d) Vendor agrees to return this executed agreement no later than 72 hours prior to the start of the event. Failure to do so will result in release of vending space.
INITIAL HERE _____
 - (e) Vendor agrees to provide all materials and supplies necessary to conduct their business.
INITIAL HERE _____

3. Event Details: Name of Event: _____
Date of Event: ___/___/20___
Time Event Starts: ___: ___AM/PM Time Event Ends: ___/___AM/PM
Location of the Event: _____
Event Contact for Owner: _____ Contact ----- _____

4. Condition of Premises: The Vendor agrees and warrants that it will inspect the Premises prior to each use and accepts the Premises in its then existing condition. The Vendor agrees and acknowledges that Owner has made no representations or warranties about the condition of the Premises. Without Owner's prior written consent, the Vendor shall not alter, improve or change the Premises, or add or attach anything to the Premises.

5. General Liability Insurance: Prior to conducting any Activities on the Premises, the Vendor shall obtain and maintain Commercial General Liability Insurance, issued by an A-rated insurance company, on a per occurrence basis, with a minimum limit of Two Million Dollars (\$2,000,000) per occurrence and Four Million Dollars (\$4,000,000) in the aggregate. The limits may be provided through a combination of primary and umbrella/excess liability policies. Said insurance shall not have any exclusions applicable to Vendor's activities, it shall name "Burke Mountain Event Company" and "Burke Mountain Operating Company" as an additional insured by endorsement to the policy, and it shall be primary and non-contributory to any other insurance available to Owner.
Vendor shall provide Owner with a certificate of insurance evidencing such insurance coverage at the time this agreement is executed and prior to the start of the event. The insurance company issuing said insurance policy shall provide Owner with 30 days prior notice of cancellation of said insurance.

6. Workers Compensation and Employer Liability Insurance: Vendor shall carry statutory Worker's Compensation (including occupational disease) and Employer's Liability (with minimum limit of \$1,000,000 per occurrence).

7. Auto Insurance: Vendor shall carry Automobile Liability and Property Damage Insurance covering all owned, leased, hired and non-owned vehicles used in connection with Vendor's activities with a combined single limit for bodily injury and property damage of at least One Million Dollars (\$1,000,000) per occurrence. Said auto insurance shall name Owner as an additional insured and shall be primary and non-contributory to any other auto insurance available to Owner. Vendor shall provide Owner with a certificate evidencing such insurance coverage at the time this agreement is executed.

8. Waiver of Subrogation: Vendor waives all subrogation rights under general liability, auto, workers compensation, or umbrella policies against Owner, its officers, directors, members, employees, agents and insurers.

9. Indemnification:
(a) The Vendor agrees to indemnify, defend and hold harmless Owner, its partners, affiliates, parents, subsidiaries and its members, directors, officers, shareholders, employees, and staff (collectively referred to herein as the "Owner Indemnified Parties"), from and against all claims, losses, liabilities, damages, injuries, recoveries, suits, judgments, penalties and expenses (including but not limited to attorneys' fees) arising out of or resulting from or occurring in connection with the Vendor's use of the Premises, provided that such claims, losses, liabilities, damages, injuries, recoveries, suits, judgments, penalties and expenses are caused by (i) the sole or partial negligence, misconduct or other fault of Vendor, anyone employed by or an agent of the Vendor, or anyone for whose acts the Vendor may be liable, including the Owner Indemnified Parties, (ii) the negligence, misconduct or other fault of Vendor, (iii) the breach by the Vendor or its employees of Vendor's obligations under this Agreement, or (iv) third party claims against Vendor for the negligence or willful act or omission by Vendor or its employees, agents or those for whom it may be liable in the performance of Vendor's obligations under this Agreement, including the Owner Indemnified

Parties. The Vendor's obligations under this paragraph shall survive the termination of the Agreement. Notwithstanding anything to the contrary in this paragraph, Vendor shall not be obligated to indemnify, defend and hold harmless Owner from and against claims, damages, losses, fines, penalties and expenses which are based on Owner's sole negligence.

(b) With respect to any claim resulting from injury or loss to an employee of Vendor or any subcontractor or any lower tier subcontractor, the Vendor agrees to indemnify and hold harmless Owner from the entire amount of such claim, including liability for injury or loss caused by the negligent acts or omissions of Owner which result in harm to such employee (unless Owner was solely negligent), and the indemnification under this paragraph shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Vendor under workers' compensation acts, disability benefit acts or other employee benefit acts. The Vendor hereby expressly waives any provision of the applicable workers' compensation acts, disability benefit acts or other employee benefit acts, including the applicable Workers' Compensation Act, which would otherwise provide immunity to the Vendor from such indemnity.

10. Entire Agreement; Amendments; Severability: This Agreement constitutes the entire agreement between Owner and Vendor regarding the subject matter hereof and supersedes all oral statements and prior writings relating thereto. This Agreement may be amended, and the provisions hereof may be waived or modified, only by instruments in writing executed by authorized representatives of Owner and Vendor. If any clause or provision of this Agreement shall be held invalid in whole or in part, then the remaining clauses and provisions, or portions thereof, shall nevertheless be and remain in full force and effect.

11. Applicable Law: This Agreement shall be governed by and construed in accordance with the laws of Vermont, exclusive of the conflicts of law provisions thereof. The exclusive jurisdiction and venue for any claim arising out of or relating to this agreement shall be the Caledonia County Superior Court or the United States District Court for the State of Vermont nearest to Caledonia County.

12. Independent Contractor: In carrying out its obligations and activities under this Agreement, it is understood and agreed that Vendor is acting as an independent entity and not as an agent, partner, joint venture or employee of Owner.

EXECUTED as a sealed instrument on the day and year first above written.

Vendor

Burke Mountain Event Company

By: _____
Authorized Representative of Vendor

By: _____
Authorized Representative of Burke Mountain Event Company.