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## Progressive Insurance St. Louis Boat & Sportshow

February 07 - 10, 2019

America's Center & The Dome, St. Louis, Missouri

07-07276-19

### EXHIBITOR TERMS & CONDITIONS

**YOU ARE ENTERING INTO A CONTRACT WHICH LIMITS YOUR POSSIBLE RECOVERY IN CASE OF LOSS OR DAMAGE.** The terms and conditions set forth below, together with any applicable Order, become a part of the agreement (the "Agreement") between FERN and you, the EXHIBITOR. You are agreeing you have been fully advised, understand completely, and are willing to accept the following terms and conditions. By exhibiting, ordering or receiving goods or services, requiring transportation of goods to or from, or acting as an agent for another exhibitor, at a show which FERN is the service contractor, you accept and agree to be bound by these terms and conditions.

#### DEFINITIONS:

For purpose of this Agreement, "FERN", "we", or "us" means Fern Exposition Services, LLC and its employees, directors, officers, agents, assigns, affiliated companies and related entities including, but not limited to, any subcontractors we may appoint. "EXHIBITOR" or "you" means the EXHIBITOR set forth in an applicable Order, its employees, agents, representatives, and any EXHIBITOR appointed contractor ("EAC"). "Order" means the purchase order, work order or other similar order form accompanying these terms and conditions, which together with these terms and conditions comprise the entire Agreement between FERN and EXHIBITOR.

#### PAYMENT TERMS:

We require 100% payment with Order for rentals, services, tax and anticipated freight. We require a credit card on file prior to acceptance of any Order and accept Visa, MasterCard, and American Express. By providing your credit card number to us via a Payment Authorization form or placing online Orders you agree that we may place your credit card on file to be used for any additional show site services as well as any future purchases. It will stay on file for the duration of the event. Full payment of rental charges must accompany your Order and be received by our office before the applicable deadline date to qualify for any discounted rate. **PLEASE NOTE THAT PURCHASE ORDERS'S ARE NOT ACCEPTED AS A FORM OF PAYMENT.** All orders received after any applicable discount deadline (indicated on each Order) will be charged at standard rates. A \$20.00 surcharge will be added to your account if any credit charges for services are denied or if any checks are returned.

To Pay by Check - Please mail check including show, booth, and company name, to:

Fern, 645 Linn Street, Cincinnati, OH 45203

We cannot accept checks drawn on foreign banks.

All invoiced amounts are due upon receipt of invoice. Unpaid accounts after the day of the show will accrue a service charge of .0575% per day (which equates to an annual interest rate of 21%), or the maximum rate allowed by law, whichever is less. You will be responsible for all fees (including reasonable attorneys fees and court costs) incurred by us in connection with the collection of your past-due accounts.

Invoiced amounts are exclusive of any sales, use or other similar taxes. You are solely responsible for payment of any sales, use or other similar taxes due in connection with the performance of this Agreement. If you claim tax exempt status, you must submit a copy of a valid exemption certificate issued by the federal government or the government of the state in which your event is taking place.

You are primarily responsible for the payment of all third-party charges. [In the event the exhibiting firm has arranged for an exhibit house or other party to handle the EXHIBITOR's display and be billed for all services, Fern will agree to the third party billing if the exhibit house supplies the appropriate credit card information on the Third Party Payment Authorization form. Advance payment in full must accompany the order including estimated labor and drayage charges. By signing the Third Party Payment Authorization form, the EXHIBITOR agrees that they are primarily responsible for payment of charges. In the event the named third party fails to pay all charges, such charges will be paid by the EXHIBITOR upon submission of an invoice, including any and all fees connected with the collection of this account.]

Copies of invoices may be picked up from the Service Desk prior to show closing. No credit will be given after close of event on items or services ordered but claimed to not have been received. All orders cancelled by you or due to the cancellation of an event or their non-participation may be subject to cancellation fees equal to 50% - 100% of the total order. Such cancellation fees will be set forth on the applicable Order.

#### FERN'S RESPONSIBILITIES:

We are only responsible for those services which we directly provide to you. We assume no responsibility for any persons, parties or other contracting firms not under our direct supervision and control. We shall not be responsible for loss, delay or damage due to strike, lockouts, work stoppages, natural elements, vandalism, acts of God, civil disturbances, disruptions in the financial or capital markets, power failures, explosions, acts of terrorism or war, or for any other cause beyond our reasonable control, nor for ordinary wear and tear in the handling of materials. We will provide material handling services as your agent, not as bailee or shipper, and shall have no responsibility or obligation thereunder and you accept responsibility thereof.

#### PACKAGING AND CRATES:

We shall not be responsible for damage to loose or uncrated materials, pad-wrapped or shrink-wrapped materials, glass breakage, concealed damage, carpets in bags or poly or improperly packed materials. In addition, we shall not be responsible for crates and packaging which are unsuitable for handling, in poor condition or have prior damage. Crates and packaging should be of a design to adequately protect contents for handling by forklift and similar means.

#### STORAGE:

We assume no liability for loss or damage to crates or containers or the contents therein while containers are in storage, including but not limited to accessible storage or cold storage. You acknowledge that storage charges are for the use of the space and are not a form of insurance or a guarantee of security.

Empty container labels will be available at the show site service desk. Affixing labels to the containers is the sole responsibility of you or your representatives. All previous labels should be removed or obliterated. We assume no responsibility for your failure to follow the above procedures; removal of containers with old empty labels or without FERN labels; shipping of containers with improper information or empty labels; or the removal or disposition of materials stored in containers with empty labels. It is understood that the labels are used for storage of empty containers only and we shall not be liable for loss or damage to any contents while containers are in storage, or for any mislabeled containers.



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### SHOW SITE:

You are solely responsible for damage or loss to any rental items in your possession or under your control in connection with your performance hereunder, including but not limited to damage or stains to carpet. Neither you nor your EACs may bring or use any kind of lift on the exhibit floor.

Our working hours are subject to change due to holidays, time of day or night worked, amount of time worked, and specific facility or union guidelines. The normal categories of hourly changes are: straight time, overtime, double time and holiday pay. Such hourly charges shall be set forth on the applicable Order.

### INBOUND SHIPMENTS:

Consistent with trade show industry practices, there may be a lapse of time between delivery of shipments to the booth and your arrival or that of your representatives, and during such time the material will be left unattended. We will not be responsible or liable for any loss, damage, theft, or disappearance of your materials after same have been delivered to your booth at the show site.

We shall not be liable for shipments received without individual freight bills, such as UPS, FedEx or other carriers who deliver in bulk and do not wait for shipment count and condition to be verified for individual shipments. Such shipments will be subject to verification and correction of count and condition and our receiving paperwork indicating any exceptions as delivered shall take precedence over shipper's signature of receipt.

### OUTBOUND SHIPMENTS & ITEMS LEFT AT SHOW SITE:

Consistent with trade show industry practices, there may be a lapse of time between the completion of packing and the actual pick-up of materials from the booth for loading onto a carrier, and during such time the material will be left unattended. We will not be responsible or liable for any loss, damage, theft or disappearance of your materials before same have been picked up for reloading or delivered to your carrier at the conclusion of the event.

We are not responsible for shipments left in your booth or elsewhere. We will count and ship pieces as we find the shipment(s) when we remove them from the exhibit hall. Circumstances may also warrant these items be sent to a remote facility and shipped from there. You will be responsible for any additional charges that result. You should insure yourself and your equipment and materials against loss or theft. We also recommend that you engage security services from the facility or show management.

All Material Handling Forms submitted to us by you will be checked at the time of pick-up from the booth and corrections will be made where discrepancies exist between the quantities of items on any form submitted to us and the actual count of such items at the booth at the time of pick-up.

We retain the right to dispose of materials left on the show floor without liability if left unattended, left without labels or not correctly labeled. A disposal fee will be charged to your account.

We load materials onto the carrier under directions from the carrier or driver of that carrier. Any loading onto the carrier will be understood to be under the exclusive supervision and control of the carrier or driver of that carrier. We assume no responsibility or liability for loss, damage, theft or disappearance of your materials that is caused by, arises out of or related to improperly loaded materials.

### RE-ROUTED FREIGHT:

In order to expedite removal of materials from show site as required by show management and/or the facility, we shall have the authority to change the your designated carrier if that carrier does not pick-up the shipment at the appointed time. Where no disposition is made by you, materials may be taken to a remote location to await your shipping instructions, and/or consigned to carrier of our choice. You agree to be responsible for charges relating to such rerouting and handling.

### INSURANCE:

It is understood that FERN is not an insurer. Insurance on exhibit materials, if any, shall be obtained by you, at your sole costs and expense from a third-party insurance provider. You agree to provide, and to cause your insurance carrier to provide, us with a release of subrogation to the extent of any insurance settlement.

### CLAIMS FOR LOSS:

You agree that in order to have a valid claim, notice of loss or damage to materials must be given to us or our agent within 24 hours of occurrence of any incident or prior to show close/removal, whichever is later. All claims reported after such period will be rejected. Such notice must include detail sufficient to identify the materials claimed to be lost or damaged, asserting our liability for alleged loss or damage and documentation indicating the specified or determinable dollar value of the claim. Damage reports, incident reports, inspection reports, notations of shortages or damage on freight bills or other documents do not constitute filing of a claim.

(a) PAYMENT FOR SERVICES MAY NOT BE WITHHELD. In the event of any dispute between you and us related to any loss, damage or claim, you shall not be entitled to and shall not withhold payment or any partial payment due to us as an offset against the amount of any alleged loss or damage. Any claims against us shall be considered separate transactions and shall be resolved on their own merits.

(b) MAXIMUM RECOVERY. If found liable for any loss, our sole and exclusive MAXIMUM liability for loss or damage to your materials and your sole and exclusive remedy is limited to \$0.50(USD) per pound per article with a maximum liability of \$100.00(USD) per item, or \$1,500.00(USD) per occurrence/shipment, whichever is less.

(c) BREACH OF CONTRACT AND/OR NEGLIGENCE ONLY. Our liability shall be limited to any loss or damage which results solely from our gross negligence in the actual physical handling of the items comprising your shipment(s) OR which results from a material breach of this Agreement and not for any other type of loss or damage. In no event shall we be liable to you or to any other party for special, collateral, exemplary, indirect, incidental, consequential or punitive damages, whether such damages occur either prior or subsequent to, or are alleged as a result of, tortious conduct, failure of our equipment or services or breach of any of the provisions of this Agreement, regardless of the form of action, whether in contract or in tort, including strict liability and negligence, even if we have been advised or has notice of the possibility of such damages, or for any damages caused by your failure to perform your responsibilities. Such excluded damages include but are not limited to loss of profits, loss of use, interruption of business or other consequential or indirect economic issues.



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### DECLARED VALUE:

Declarations of declared value are between you and your selected carrier ONLY and are in no way an extension of our maximum liability stated herein. We will use commercially reasonable efforts to transmit the declared value instructions to the selected carrier, however, we will not be liable for any claim arising from the transmittal of, or failure to transmit, declared value instructions to the carriers, nor for the failure of the carrier to uphold the declared value or any other term of carriage.

### FACILITIES AND SHOW ORGANIZERS:

You agree and understand that you, your agents and anyone working on your behalf must abide by and adhere to the rules and regulations of the facility being worked at, as well as any rules and regulations implemented by the show organizers.

### TERMINATION:

We may terminate this Agreement immediately upon written notice in the event you breach any term or provision hereof. We may also terminate this Agreement for any reason or no reason upon ten (10) days prior written notice to you. In either case, you shall be responsible for any fees or charges incurred prior to the effective date of such termination.

### INDEMNIFICATION:

You agree to indemnify, defend and forever hold harmless FERN and our employees, directors, officers and agents from and against any and all demands, claims, causes of action, fines, penalties, damages (including consequential), liabilities, judgments and expenses including but not limited to reasonable attorney's fees and investigation costs on account of personal injury, death, or damage to or loss of property or profits arising out of or contributed by any of the following:

- Your negligent supervision of your personnel (including, but not limited to, any labor secured through us) or the negligent supervision of such personnel by any of your employees, agents, representatives, customers, invitees and/or any EAC.
- Your negligence, willful misconduct, or deliberate act, or the negligence, willful misconduct, or deliberate act of your employees, agents, representatives, customers, invitees and/or any EAC at the show or exposition to which this Agreement relates, including but not limited to the misuse, improper use, unauthorized alteration or negligent handling of our equipment.
- Your violation of federal, state, county or local ordinances.
- Your violation of show regulations and/or rules as published and set forth by the facility and/or show management.

### WAIVER AND RELEASE:

You agree to waive and release all claims against us with regards to all matters for which we have disclaimed liability pursuant to the provisions of this Agreement.

### SEVERABILITY:

If any provision of this contract is deemed to be invalid, illegal, or not enforceable, the remainder of this contract shall remain in effect and not be impacted by such findings.

### WAIVER:

No waiver by us of any of the provisions of this Agreement is effective unless explicitly set forth in writing and signed by us. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement operates, or may be construed, as a waiver thereof. No single or partial exercise of any right, remedy, power or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

### ASSIGNMENT:

You shall not assign, transfer, delegate or subcontract any of your rights or obligations under this Agreement without our prior written consent. Any purported assignment or delegation in violation of this Section shall be null and void. No assignment or delegation shall relieve you of any of your obligations hereunder. We may at any time assign or transfer any or all of its rights or obligations under this Agreement without your prior written consent to any affiliate or to any person acquiring all or substantially all of our assets.

### RELATIONSHIP OF THE PARTIES:

The relationship between the parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

### NO THIRD-PARTY BENEFICIARIES:

This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

### SURVIVAL:

The provisions of this Agreement which by their nature should apply beyond their terms will remain in force after any termination or expiration of this Agreement including, but not limited to, the following provisions: Insurance, Claims for Loss, Indemnification, Governing Law, Jurisdiction and Survival.

### AMENDMENT AND MODIFICATION:

This Agreement may only be amended or modified in a writing stating specifically that it amends this Agreement and is signed by an authorized representative of each party.

### GOVERNING LAW, JURISDICTION:

This Agreement shall be construed under the laws of the State of Ohio without reference to the conflicts of laws principles thereof. FERN and EXHIBITOR hereby consent to the executive jurisdiction and venue of the federal or state courts located in Hamilton County, Ohio for all actions or suits related to the interpretation or enforcement of this Agreement.