

SPECIAL EVENT TERMS AND CONDITIONS

The following terms and conditions are hereby incorporated into and made a part of the Event Agreement to which they are annexed.

1. USE OF PREMISES. The Host's access to and use of the Whitney premises shall be solely for the purpose of preparing for, hosting the Event and are subject to all terms and conditions of this Agreement. For purposes of this agreement, "Event" means the occasion for which the premises are rented, as well as delivery of any equipment, decorations, supplies and other items prior to the occasion, setup, clean up, and removal of all materials brought in by the Host. All non-rented areas (except for ancillary spaces designated by the Whitney for the purpose of the Event, such as certain hallways, bathrooms, elevators, and coat check areas) are off-limits to the Host, its directors, officers, employees, agents, guests, vendors and independent contractors. Host understands and acknowledges that museum exhibitions change periodically, the Whitney cannot guarantee that the rental space as specified in the Event Agreement or proximate areas within the Museum will have the same appearance as when originally viewed. The Museum reserves the right to install works of art, including large sculptures or installation pieces, in and about Museum spaces without notice to the Host. If, at the Host's request, and at the Whitney's sole discretion, the Museum agrees to relocate certain works of art, all costs and expenses related to the relocation and subsequent restoration of the artwork will be paid for by the Host.

2. FEES AND PAYMENT. Host will be responsible for all costs related to the Event, including (a) the Rental Fee, and (b) costs attributable to the Event, including costs of Museum security, equipment purchase and rental, and all costs of any subcontractors. A deposit of fifty percent (50%) of the Event Fee ("Deposit") shall be paid within ten (10) business days of the Host's booking of a date and the balance shall be paid no later than ten (10) business days prior to the date of the Event. Any additional expenses incurred by the Museum requested by the Host, or required for the Event, will be included in the final Museum invoice. The final balance shall be paid no later than ten (10) business days after receiving the final Museum invoice. Rental fees are based on the hourly minimums which include the actual Event Time plus setup and breakdown.

3. CANCELLATION. If the Event is cancelled by the Host, or if the Host fails to pay the balance of the Event Fee within ten (10) business days prior to the Event, time being of the essence of such date, the Whitney shall be entitled to retain, as liquidated damages, actual damages not being reasonably ascertainable as of the date hereof, the Deposit. The Whitney and the Host thereafter shall have no further obligations to each other under this Agreement, except only for any rights and obligations which expressly survive termination of this Agreement. However, if requested by the Host, the Whitney may, at its sole discretion, agree to reschedule the Event and apply any monies paid by the Host in connection with the originally scheduled Event. No monies will be applied to any rescheduled Event that occurs more than one year after the date of the originally scheduled Event. The Whitney reserves the right to cancel the Event up to or including the day of the Event if it becomes apparent that the intended use of the space will (a) violate the Requirements (as defined below), or (b) endanger any personnel or property of the Whitney. In such case, the Whitney shall retain the Host's Deposit as liquidated damages and shall return all other monies, if any, previously paid by the Host.

4. COMPLIANCE WITH LAWS AND WHITNEY REQUIREMENTS. The Host shall comply, at its own cost and expense, with (a) the Terms and Conditions hereof, including the Special Event Policies; and (b) all laws and regulations applicable to the Host's specific use or manner of use of the Whitney, including (i) obtaining any necessary consents, permissions and waivers, including but not limited to, privacy releases and copyright clearances, (ii) securing a temporary place of assembly permit ("TPA"), to the extent Host's plans deviate from the Museum's existing Place of Assembly Plans, (iii) for paying any royalties, fees or other amounts claimed by third parties in connection with the Event, and (iv) meeting any contractual obligations between the Host and its vendors and independent contractors (items i, ii, iii, and iv collectively, "Requirements"). The Host shall also be responsible for the conduct of the Host's Invitees.

5. INSURANCE AND INDEMNIFICATION Without limiting the Host's or other third party's indemnification of the Whitney, as provided in this Paragraph 5, the Host agrees to obtain:

- a) Commercial General Liability coverage written on an occurrence basis, including independent contractors liability and contractual liability and covering death, bodily injury and property damage with minimum limits of \$2,000,000 per occurrence and \$4,000,000 in the aggregate.
- b) Umbrella or Excess Liability on a "follow form basis" with a minimum limit of \$5,000,000 per occurrence and annual aggregate.
- c) Auto Liability coverage with minimum limit of \$1,000,000 per occurrence.
- d) Workers Compensation including Employers Liability, and New York State Statutory Disability, all with limits as required by New York State law.
- e) Liquor Law liability with a minimum limit of \$2,000,000 per occurrence and annual aggregate, which may be carried by Host's caterer.

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- f) "Special Risk Property" insurance on all property brought on premises for use by Host.

Host's General Liability insurance shall name the Whitney as an additional insured on a primary and non-contributory basis and shall require that the insurance company defend and indemnify the Whitney against any and all claims arising from or anyway resulting from the performance or omission of the Host, as will the Liquor Law liability coverage. Host shall have Workers Compensation and Property carriers include waivers of their carriers' rights of subrogation against Whitney.

All of the foregoing coverage will be obtained and maintained at your expense from insurers rated "A" or better by A.M. Best's Insurance Reports, and which are authorized to transact insurance in New York, as evidenced by a subsisting certificate of authority issued by the Commissioner of Insurance of New York. The Host shall provide to the Whitney a certificate of insurance evidencing such Workers Compensation, General Liability, Umbrella/Excess Liability, Auto and Liquor Law Liability coverage no less than ten (10) business days prior to the Event. The Host shall ensure that all outside vendors provide the Whitney with proof of general liability and Worker's Compensation coverage no less than ten (10) business days prior to the Event.

The Host will report to the Whitney immediately any incident occurring during the Event that may result in a third-party liability claim and will cooperate with the Whitney in the disposition of all such matters.

Subcontractors hired by the Host for the purpose of performing work on or about the premises in connection with the Event will be subject to approval by the Whitney as well as the foregoing insurance requirements, or such other insurance as may be required by the Museum in its sole discretion. In addition, all such subcontractors will be required to name the Whitney as additional insured on any such insurance that the subcontractor is required to obtain by specific endorsement. Furthermore, any such policy will be primary non-contributory with any policies maintained by the Whitney. Notwithstanding the foregoing, however, the Host's insurance responsibilities and obligation to indemnify the Whitney in accordance with the terms of this Paragraph 5 will in no way be affected by any insurance that may be required of or carried by any subcontractor of the Host.

To the maximum extent permitted under applicable law, the Host agrees to indemnify, defend, and hold harmless the Whitney, its officers, directors, trustees, agents, and employees (the "Indemnitees") from all actions, costs, claims, losses, expenses, and/or damages, including reasonable attorney's fees, court costs, out-of-pocket expenses arising in whole or in part out of or resulting from the Event, the Host's use of the Whitney facilities or any breaches of this Agreement (the "Indemnity"); provided, however, that the Indemnity shall not apply with respect to any claims arising from the gross negligence or willful misconduct of the Indemnitees. The provisions of this Paragraph 5 shall survive the Event or termination of this Agreement.

The Host further waives any and all claims against the Museum for consequential, special or incidental damages arising in whole or in part out of or relating to this Agreement, whether due to fault of the Whitney or act of God, and including, but not limited to, damages incurred by the Host for rental expenses, loss of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons.

6. SITE VISITS. While the Whitney recognizes the importance of viewing the site during the event planning process, the Museum requests that such visits be kept to a minimum and that all subcontractors join in one visit, rather than several. All site visits are by appointment only and must be approved in advance by the Whitney. Requests for appointments must be submitted in writing to Special Events.

A pre-event walk-through prior to the Event that includes the Host, caterer, event planner, and other major subcontractors is required.

7. INVITATIONS, PROMOTIONAL AND PRINTED MATERIAL. The formats, layouts and contents of all announcements, invitations, guest lists, signage, fact sheets, advertising, promotional or other materials related to the Event, including the final typeset copies are subject to the review and approval of the Whitney. Such materials must be submitted to Special Events at least two (2) months prior to the event for the Museum to review and approve, and shall not be printed or distributed without the written approval of the Whitney. The Host agrees to reprint and re-distribute, at the Host's sole cost and expense, any materials that are printed without the written approval of the Whitney. The Host may not use the name of the Whitney to promote the Event, except that the Host shall have the right to mention the Museum's name in informational and press materials only to describe the location of the Event. In no event shall any reference be made to the Museum, or to any exhibition in a manner that is likely to create the impression that the Museum endorses any product, service or political cause. In no event shall any reference be made to the Museum in a manner that is likely to create the impression that the Host has sponsored an exhibition.

For the purposes of the invitation, the Museum shall be referred to as:

Whitney Museum of American Art
99 Gansevoort Street
New York, NY 10014

Announcements and advertising concerning the Event are not permitted prior to the Host's payment of the Deposit.

8. GUEST LISTS. The number of guests will not exceed the number specified in the Event Summary, without prior written consent of the Whitney. An alphabetical list of guests (last name, first name, in Microsoft Excel format) must be submitted to Special Events two (2) business days prior to the Event. The guest list must indicate all positive responses received.

9. VENDOR SELECTION. The Host must notify the Museum in writing three (3) weeks prior to the Event of its selection of all vendors. All vendors are subject to approval by the Museum and must work in coordination with Museum staff and comply with all Requirements. A list of approved vendors can be provided upon request.

The Host agrees to use, and to contract directly with, Union Square Events, the Museum's exclusive caterer, for any food or beverages, including liquor, which are to be served at the Event. The contact person at Union Square Events is: **Suzanne Blezard, Director of Catering and Events, Untitled and Studio Café / Union Square Events, Whitney Museum of American Art 99 Gansevoort Street, New York, NY 10014, (646) 522 – 4707** sblezard@untitledatthewhitney.com.

10. DELIVERIES, SETUP AND CLEANUP. Deliveries shall be made to the Whitney's loading dock, located at 555 West Street, but only on the day and at the hour approved in advance by the Whitney. A delivery schedule will be determined by Special Events prior to the Event. Any unapproved use of the loading dock, including storage of items on or near the loading dock is prohibited. The Whitney does not provide lifts, ladders or other equipment for the set up of décor, and does not provide dollies, carts, or other items for the loading and unloading of equipment or supplies. Museum agrees to provide specifications for equipment secured by the Host or its vendors upon request.

The setup for the Event may not commence prior to 5:00 p.m. on the date of the Event except for Events that take place in the Theatre or 5th Floor Outdoor Gallery, or unless otherwise agreed to by the Whitney. All equipment, decorations, supplies and other items relating to the Event must be loaded out from the Whitney by the Host or vendors between 8:00 a.m. and 10:00 a.m. the following morning, unless otherwise approved in writing by Whitney. The Whitney assumes no responsibility for the security or safety of stored property left prior to or after an Event. All areas of preparation, including the freight elevator and loading dock, must be left in the condition they were found, including removal of all materials brought in by the Host as well as sweeping the floors in such areas.

The Whitney will not take responsibility for setup or cleanup. The Host will be billed if Museum labor is required.

11. PRESS AND PUBLIC RELATIONS. All material and arrangements concerning Event-related public relations and press are also subject to advance approval by the Whitney. All requests for media coverage of the Event must be submitted in writing to Special Events at least thirty (30) days prior to the Event. The request must include information about the categories of press to be invited (e.g., still photographers, journalists, etc.) and the nature of any desired

coverage. Special Events will present the Host's request to the Museum's Communications Department for consideration and approval (or disapproval).

In addition, all press releases and media alerts mentioning the Museum are subject to the Museum's advance approval. The Communications Department requires three (3) business days to approve press releases and media coverage. Events that include a significant press or public relations presence at the Museum shall be subject to an additional fee.

A list of confirmed press should also be provided to Special Events by 3:00 p.m. the day before the Event.

In the rare instance that the Museum permits television or Internet coverage of an event, the Communications Department must have staff present to supervise any taping or filming activity, and the Host must comply with the Museum's standards for working with such press. A copy of these guidelines is available upon request. The Whitney has discretion to terminate any taping or filming activity if it becomes apparent that such activity fails to comply with the Requirements.

12. PHOTOGRAPHY, USE OF PHOTOGRAPHERS AND PHOTOGRAPHIC EQUIPMENT.

Personal Photography. Personal, non-commercial photography is permitted in public areas and in the Museum's Permanent Collection galleries only. The use of a selfie-stick, flash, tripod, or other professional equipment is not permitted for personal photography.

Professional Photography. The Host must notify the Museum's Special Events Department in writing at least 10 business days in advance of any plans to use professional photographers or videographers at the Event. In order to protect the Museum's collections and facilities, photographers and videographers must follow the Museum's Guidelines and are subject to any additional requirements the Museum may request, for example, restrictions on the use of lighting or the placement of equipment. Professional photographs are permitted in designated areas only, and in general no professional photography will be permitted in front of artwork. **The Host will be responsible for clearing any rights with regard to any individuals or works of art (if any) included in any photographs or other reproductions used by the Host.**

13. DECORATIONS. Decorations must not endanger the Whitney's collections, necessitate the removal of works of art, or affect their appearance. All plans for menus, floor plans, setup and breakdown schedules, lighting, decorations (including, but not limited to, floral arrangements, table centerpieces, potted trees, plants or other large plants, and candles (votive or completely enclosed pillar candles)), visual displays and any special installation of equipment shall be submitted to the Whitney for review and approval at least ten (10) business days prior to the Event.

All displays, exhibits and decorations must conform to all applicable Requirements and should be free standing without attachment to walls, ceilings, floors, or any surfaces of the Museum. The use of tape, wire, nails, staples, tacks, glue and similar items is prohibited. In no event shall open flame or taper candles be permitted, and any approved trees and plants must be thoroughly treated with insecticide.

Glitter, confetti, streamers, and helium balloons are not allowed in the Whitney. Should cleanup of these items be necessary, the Host shall pay a fee equal to the amount of the cleanup, repair, or replacement, or \$1,500, whichever is greater.

The installation and removal of all decorations and/or displays must be supervised by the Whitney. The Museum reserves the right of final approval over all decorations on the evening of the Event. The Museum may require that on-site modifications be made to the decorations to ensure compliance with this Agreement and to protect the Museum's facilities.

14. SIGNAGE. Display of signage is allowed only within designated areas of the Lobby. The signage must be free standing and must not endanger any artwork. The size and placement of signage is subject to the approval of Special Events.

15. MUSIC & ENTERTAINMENT. Designation of rental equipment, live bands, disc jockeys ("DJ") and/or other proposed entertainment must be submitted to the Whitney for approval at least ten (10) business days prior to the scheduled date of the Event. All lists of equipment, electrical requirements, supplies, delivery schedules, expected setup and rehearsal times must be similarly submitted for approval within ten (10) business days of the Event.

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It is the responsibility of the band or the DJ to use floor protection approved by the Whitney under their equipment during load-in, performance, and load-out. All load-in and load-out must be through the Whitney's loading dock. The Whitney reserves the right to prohibit any equipment needing more power than the standard electrical outlets provide or any equipment that the Whitney determines is inappropriate.

16. GIFTS. Special Events must approve any gifts to be presented to guests within 10 business days of the Event. Any gifts remaining at the close of the Event must be removed from the Museum between 8:00 a.m. and 10:00 a.m. the following morning.

17. NOTICES. All notices, approvals, or other communications (together, "notices") required or permitted to be given by either Party under this Agreement shall be in writing, signed by the Party giving notice, addressed to the other Party at the address listed in the Event Summary (or at such address as may be otherwise specified by prior notice), and either delivered personally, or transmitted by certified mail (return receipt requested), overnight mail or express courier service, hand delivery, or email.

18. EXPIRATION; TERMINATION. Upon the conclusion of the Event as indicated by the Breakdown End Time stated on the Event Agreement ("Event Expiration"), or upon any termination of this Agreement, the Host and each and every of the Invitees will immediately cease all activities relating to the Event on the Whitney's premises. Notwithstanding the Event Expiration, the Host shall remove all equipment, decorations, supplies and other items relating to the Event from the Whitney pursuant to Paragraph 5 of the Special Events Policies.

19. FORCE MAJEURE. The Museum will have no responsibility or liability for failure to provide any service in connection with this Agreement if the Museum's availability or performance is prevented by acts of God, labor unrest, terrorist acts or threats of terrorism, shortage of supplies, orders or other interventions by governmental authorities or any other causes that are beyond the Museum's control. If due to some such event, the Museum is prevented from performing its obligations under this Agreement, the Museum may cancel the Event, return the Host's Deposit, and terminate this Agreement. As an alternative to cancellation of the Event, if requested by the Host, the Whitney may, at its sole discretion, agree to reschedule the Event at another date and time and apply any monies paid by the Host in connection with the originally scheduled Event. No monies will be applied to any rescheduled Event that occurs more than one year after the date of the originally scheduled Event.

20. MISCELLANEOUS. Each Party represents and warrants that it has the power and authority to execute this Agreement on behalf of the respective entity for which they have signed and that this Agreement is binding and enforceable against the respective parties hereto in accordance with its terms. This Agreement is personal to the parties and cannot be assigned without the written consent of other party. The Parties are independent of one another, and nothing herein shall be deemed to create any principal/agent, partnership, or joint-venture relationship between them. Neither Party shall have any right or power to bind the other party except as may be expressly agreed in writing. This Agreement shall be governed by and construed in accordance with the laws of the State of New York without reference to its conflicts of laws rules. The Parties agree and consent that all matters relating to this Agreement will be vested in the exclusive jurisdiction and venue of the federal, state and local courts in New York County, New York. If any term or provision (other than a term or provision relating to any payment obligation) of this Agreement or its application to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is invalid or unenforceable, will not be affected thereby and will be valid and enforceable to the extent permitted by law. The failure by either Party to insist upon performance of any of the Terms and Conditions of this Agreement in one or more circumstances will not be construed as a waiver or relinquishment of any such Terms and Conditions, but the same will be and remain in full force and affect.

This Agreement may be executed in counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which taken together shall constitute one and the same instrument. Copies of executed counterparts transmitted by telecopy, telefax or other electronic transmission service shall be considered original executed counterparts for purposes of this Paragraph 20.

This Agreement constitutes the full and complete agreement between the parties hereto and no earlier or later written statement shall have any force or effect. This Agreement shall not be modified except by written amendment specifically referencing these Terms and Conditions, signed by both parties.

SPECIAL EVENT POLICIES

All Events are subject to the Whitney's general Event policies, guidelines, and restrictions, including the following:

- The Event should be in character with the first-class standards of the Whitney and conducted in a manner which will not jeopardize the integrity of the Whitney.
- Corporate Events are subject to [Corporate Entertaining Policies](#).
- Social Events are subject to [Donor Entertaining Policies](#).
- The Event must encourage and provide the opportunity for guests to view artwork in the Museum's galleries.
- No artwork is to be displayed within the Museum other than that which is currently on exhibition at the Whitney or otherwise part of the Whitney's permanent collection.
- No artwork shall be handled or moved by the Host.
- The sale of tickets and any other type of fundraising in connection with the Event is not permitted.
- Auctions are not permitted.
- Political events and religious ceremonies are not permitted.
- Public-facing rentals including film and photography shoots, film screenings, product launches and showcases, as well as use of the image of the Whitney building will be addressed on a case-by-case basis by the Museum.
- All press and photography coverage must be submitted by the host prior to the event.
- Products or services may not be sold on the Whitney premises other than authorized items from the Whitney.
- Advertising or promotional materials are prohibited on the Whitney premises, including outside of or on the exterior of the Whitney building.
- Liquor must be purchased through Union Square Hospitality Group/Whitney.
- No propane or butane-powered equipment is permitted at the Event. Any preparation or warming of food may only be accomplished with sterno-heated proofing cabinets.
- Smoking is not permitted on the Whitney premises, including outside of the Whitney building and on its outdoor terraces.
- All Events must comply with the stipulations of the Museum's liquor license, including, without limitation, the following: (a) No outdoor amplified sound will be permitted; (b) All events must end by midnight, with all patrons and guests having left by that time (or such earlier time as may be provided in the Event Summary); (c) For events of over 250 people, traffic marshals arranged by the Host at its expense shall be engaged to discourage double parking on Gansevoort Street.
- Approved listing of the Museum for invitation purposes: "Whitney Museum of American Art, 99 Gansevoort Street, New York, NY 10014"
- All vendors must be approved by the Whitney. A list of approved vendors can be provided upon request. All vendor deliveries and pick-ups must be scheduled to the loading dock at 555 West Street between the hours of 8:00-10:00AM, or as otherwise scheduled by the Whitney.