

PARKING LOT USAGE AGREEMENT

THIS PARKING LOT USAGE AGREEMENT (the "Agreement") is made as of October _____, 2012 by and between Harley-Davidson Museum, LLC, a Wisconsin limited liability company ("Harley-Davidson Museum" or "Harley-Davidson"), and the City of Milwaukee acting on behalf of its Fire Department (the "Milwaukee Fire Department"). Harley-Davidson and the Milwaukee Fire Department are referred to herein collectively as the "Parties" and individually as a "Party."

- A. WHEREAS, the Milwaukee Fire Department desires to conduct a recruiting event for its Fire Cadet Program which will be open to the public (the "Event") on the South 5th Street portion of the Harley-Davidson Museum parking lot located between _____ (the "Lot") which is owned, controlled and operated by Harley-Davidson Museum;
- B. WHEREAS, the Milwaukee Fire Department has provided support and assistance to the Harley-Davidson Museum, including but not limited to making its fire boat available for events at the Harley-Davidson Museum; and
- C. WHEREAS, the Harley-Davidson Museum desires to permit the Milwaukee Fire Department to use the Lot pursuant to the terms and conditions set forth in this Agreement.

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is hereby agreed that:

1. Term. The Milwaukee Fire Department is permitted to use the Lot for the Permitted Use (as defined below) on Sunday, October 21, 2012 in accordance with such schedules and timeframes as agreed to by the Harley-Davidson Museum in its sole discretion. At the conclusion of the Event, the Milwaukee Fire Department shall remove all of its property from the Harley-Davidson Museum's property and restore the Lot to the condition it was in as of the date of this Agreement, subject to normal wear and tear.
2. Permitted Use. The Milwaukee Fire Department's usage of the Lot will be limited to conducting the Event on the southern portion of the Lot as designated by the Harley-Davidson Museum that contains only equipment and other materials used for the Event (the "Permitted Use"). Neither the Milwaukee Fire Department nor the participants in the Event will have access to or usage of any Harley-Davidson property or facilities, other than the Lot and all areas open to the public.
3. Security. The Harley-Davidson Museum will maintain security for the Lot in accordance with its normal practices and procedures and no additional security will be provided to the Milwaukee Fire Department by the Harley-Davidson Museum. The Milwaukee Fire Department will comply, and will cause each of the participants in the Training to comply, with all security and safety policies of Harley-Davidson, as provided from time to time, while on the Lot. Harley-Davidson will not be liable for any damage to or loss of the property or equipment of the Milwaukee Fire Department.

4. Milwaukee Fire Department Responsibilities. The Milwaukee Fire Department will provide and be responsible for taking the following actions and all the related expenses of the following items or services: (a) conducting the Event in accordance with the appropriate standard of care ordinarily exercised by the Milwaukee Fire Department for Fire Cadet recruitment events; (b) maintaining the markings, signage or other indicators, equipment and materials (collectively, the “Materials”) necessary for conducting the Event on the Lot (except as set forth in Section 5 below); (c) leaving the Lot in the condition that it is found immediately prior to the Event; and (d) setting up all non-permanent Materials for the Event and removing all non-permanent Materials at the end of the Event.

Except as specifically set forth in Section 5 of this Agreement, the Harley-Davidson Museum will not be responsible for preparing or modifying the Lot in any manner for the Milwaukee Fire Department's usage in connection with the Event or any related costs or expenses. Such responsibility will remain solely with the Milwaukee Fire Department and all necessary preparation and/or modifications will require the express, prior consent of the Harley-Davidson Museum.

5. Harley-Davidson Responsibilities. Harley-Davidson will be responsible for the following services (the “Services”): (a) sweeping the Lot periodically as determined by Harley-Davidson and the Milwaukee Fire Department to be necessary for the Permitted Use; (b) restricting the Lot from motor vehicle traffic during the Event; and (c) restricting the Lot from pedestrian traffic and public access during the Event except as directed by the Milwaukee Fire Department to allow safe public access to and participation in the Event.

6. Indemnification.

(a) General Liability. The Milwaukee Fire Department will indemnify, defend, and hold harmless Harley-Davidson and its affiliates, and their respective officers, directors, employees, agents, successors, and assigns (the “Indemnified Persons”) from and against any and all deficiencies, liabilities, obligations, losses, claims, demands, actions, suits, judgments, damages, penalties, costs, losses, interest or expenses, and disbursements, including reasonable attorneys’ fees, (each a “Claim”) of whatever kind and nature that may be imposed on, incurred by, or asserted against any Indemnified Person relating to or arising out of: (i) Milwaukee Fire Department’s usage of or damage to the Lot; (ii) the death of or injury to any person(s) in connection with the Milwaukee Fire Department’s usage of the Lot or conducting the Event; (iii) any damage to any property resulting from Milwaukee Fire Department’s usage of the Lot or the Event conducted by Milwaukee Fire Department; or (iv) Milwaukee Fire Department’s failure to perform or observe any of its material obligations under this Agreement.

(b) Retention of Counsel. Harley-Davidson at all times reserves the right to select and retain counsel of its own to defend its interests.

(c) Limitation of Liability. HARLEY-DAVIDSON WILL NOT BE LIABLE FOR INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES SUFFERED AS A RESULT OF, OR IN ANY WAY CONNECTED TO, THIS AGREEMENT, INCLUDING WITHOUT LIMITATION SUCH DAMAGES ARISING FROM A BREACH OF

CONTRACT, EVEN IF HARLEY-DAVIDSON HAS BEEN SPECIFICALLY ADVISED CONCERNING THE POSSIBILITY OF SUCH DAMAGES.

7. Miscellaneous.

(a) No Agency or Joint Venture. This Agreement neither makes nor appoints the Milwaukee Fire Department as an agent of Harley-Davidson, nor does it create a partnership or joint venture between the Parties. Milwaukee Fire Department will not act or represent itself as an agent of Harley-Davidson or purport to bind or obligate Harley-Davidson in any manner.

(b) Severability. If any provision of this Agreement is declared invalid under applicable law, the affected provision will be considered omitted or modified to conform to applicable law, and all other provisions will remain in full force and effect.

(c) No Waiver. No failure or delay on the part of Harley-Davidson in exercising any right, power, or remedy under this Agreement will operate as a waiver thereof, nor will any single or partial exercise of any such right, power, or remedy preclude any other or further exercise thereof or the exercise of any other right, power, or remedy hereunder. The rights and remedies provided in this Agreement are cumulative and are not exclusive of any other rights, powers, or remedies, now or hereafter existing, at law or in equity or otherwise.

(d) Execution. This Agreement may be executed in counterparts, each of which will be deemed to be an original, but all of which will constitute one and the same agreement. A signature affixed by a Party to a counterpart of this Agreement and delivered by facsimile transmission is valid, binding and enforceable against such Party.

(e) Integration. This Agreement, including its exhibits, contains the Parties' entire agreement relating to the subject matter hereof and supersedes all oral statements and prior writings with respect thereto.

(f) Amendments. This Agreement, including its exhibits, will not be amended, modified, terminated, or waived, except in a writing signed by the Parties.

(g) Consents and Approvals. The Harley-Davidson Museum may grant, delay, or withhold any approval or consent required or permitted under this Agreement in its sole discretion.

(h) Survival. All rights of the Harley-Davidson Museum (including indemnity rights) will survive any expiration or termination of this Agreement and will be enforceable by Harley-Davidson, its successors and assigns.

(i) Assignment. The Milwaukee Fire Department will not assign or transfer any of its rights under this Agreement without the prior written consent of the Harley-Davidson Museum. This Agreement and each exhibit hereto will be binding upon and inure to the benefit of the Harley-Davidson Museum, the Milwaukee Fire Department, and their successors and permitted assigns.

(j) Notices. Any notice required or permitted under this Agreement will be in writing and will be effective when sent by reputable overnight courier, by first-class, priority, or express United States mail (postage prepaid), or by facsimile transmission promptly confirmed by overnight courier or United States mail. All such notices will be addressed to Harley-Davidson or Milwaukee Fire Department at the address stated on the signature page of this Agreement, or at such other place as such addressee may designate in writing.

(k) Governing Law. This Agreement will be governed by and construed in accordance with the laws of the State of Wisconsin.

(l) Headings. The paragraph headings appearing in this Agreement are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or extent of such paragraph.

(Signature page follows)

