

**COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF CONSERVATION AND RECREATION**

**SHORT TERM COMMERCIAL USE APPLICATION AND PERMIT**

Pursuant to Title 801 of the Code of Massachusetts Regulations, § 4.02 (14)(d) and 302: Department of Conservation and Recreation 12.17, DCR is authorized to charge a fee for short term commercial operations on DCR parkland for one day up to or one hundred eighty (180) days in one season or year. DCR is authorized to issue special use permits pursuant to M.G.L. c. 92 and c. 132, and its other enabling statutes and regulations. For multiple year or multiple location uses, a long-term agreement or competitive process may be more appropriate; the determination of the type of permit and terms to be issued is in the sole discretion of the Commissioner of DCR.

**Applying for a Short Term Commercial Permit**

**STEP #1** **C o m p l e t e** all fields on the Permit application. Please attach all relevant operation information including detailed activity information, pricing to participants, all staff contact information, maps or diagrams showing location of park and proposed activity, photos of cart, or other equipment, whether utilities are needed or involved, or tents will be used etc., proof you can obtain a Certificate of Liability Insurance, and any other relevant local or other state licenses, written approvals, or certificates (hawkers, peddlers, food cleanliness, serve-safe, business certificates, etc.)

**Short Term Commercial Permit fees are:**

Daily	\$35.00
Weekly	\$200.00
Monthly	\$850.00
6-Month	\$5,000.00

**Not including the application or any mitigation fee**

**Submit completed application, application fee, and applicable permit period fee online**

**STEP #2** DCR will review and forward your application to all appropriate DCR staff and any other relevant entities which may include DCR Planning and Resource Protection, Engineering, Special Events, External Affairs/Sponsorship, Legal, and Parks staff. If your permit requires any mitigation (additional DCR staff, equipment on site, or services required) for which you will be responsible prior to your first program day or before the end of your use, DCR will inform you of those requirements.

**STEP #3** If the proposed activity is approved, you will be required to send in the applicable short term commercial permit fee (listed above), a finalized certificate of insurance (as described in section 9 of the attached Permit). Once all of that is received by DCR staff your countersigned permit and placard will be emailed to you, you must print this permit. Original Permits/Placards must be displayed and/or held on-site during all commercial operations on DCR parkland during the approved operational period.

## **Important Information**

- ❖ **READ AND REVIEW: 1) THE ATTACHED FORM OF PERMIT; AND 2) TITLE 302 OF THE MASSACHUSETTS CODE OF REGULATIONS, SECTION 12.00 which can be found at: [HTTPS://WWW.MASS.GOV/REGULATIONS/302-CMR-12-PARKS-AND-RECREATION](https://www.mass.gov/regulations/302-cmr-12-parks-and-recreation).**

All permitted operators must agree to abide by all DCR park regulations (which include rules governing the conduct of visitors, prohibited activities), directions from authorized DCR staff, and all applicable local, state, and federal laws and regulations. All permittees are responsible for their staff, invitees, guests, and customers.

No alcohol or tobacco products, commercial advertising or sponsorship materials are allowed without prior approval. Alcohol and drugs (other than regularly prescribed medicine) cannot be consumed, sold, or given away on DCR property. DCR Park Supervisors and Region staff can require permittees to modify their staff, invitee, guest and customer behavior, practices, and procedures, or suffer termination of the permitted use and removal from the Premises. The Massachusetts State Police, DCR Park Rangers, Massachusetts Environmental Police, and local police can remove permittees and their patrons at the request of DCR Park Supervisors and Region staff.

- ❖ You must submit a proof of insurance to DCR prior to the start of your use in order to receive an approved permit. This proof of insurance must show on its face and in writing the Commonwealth of Massachusetts, DCR as an “Additional Insured” for liability related to the uses and activities conducted by you on DCR parkland. Lack of insurance will prevent approval of the proposed use. The insurance requirements are in the attached form permit in Section 9.
- ❖ DCR does not guarantee that you will receive a permit for your proposed use. Such permission is at the sole discretion of the DCR. This is not an exclusive use permit and is issued on a first come, first served basis. In the event of competition for the same location, DCR will issue the permit to the first completed and received application provided all else about the proposed activity is equal. DCR may also consider instituting a competitive process for such uses over time. If the nature of your use is contrary to the commonwealth, DCR or EEOA mission, policies, rules, regulations, laws, statutes or is offensive or illegal, or is in conflict with another permittee, local business or recognized authority, or fair use of the premises by the general public, DCR may not issue a permit or revoke a permit. No other use for this permit will be allowed other than that applied for and described. This permit is not transferable to anyone other than the applicant and named staff and expected participants.
- ❖ In all your event or program publicity, online or printed materials, and communications with your participants, please refer to your event location as a DCR park or facility. (Example: “DCR’s Charles River Reservation” or “DCR’s Revere Beach State Reservation.”)
- ❖ Any special equipment (film/video, tents, amplified sound, portable toilets etc.) or additional DCR staff coverage onsite may require additional permitting and/or fees from DCR or other state or local authorities (i.e., Dept. of Public Safety or Local authorities for tent or scaffolding approval, entertainment licenses, etc.). Note that in some locations trucks of certain sizes will not be allowed or may require parkway permits from DCR Engineering. All trash generated and near the proposed location must be picked up and taken away by you, the permittee.
- ❖ Mitigation Fee: For use of certain locations such as the Esplanade Oval or Pilgrim Memorial Park, additional insurance, a bond, or an additional fee for repair of grass or landscape elements, irrigation and electrical conduit, and pavement nearby may be required. Depending upon the use, number of visitors, length of time of use, DCR may also require that the permittee obtain a police detail(s), pay for additional trash removal services, additional DCR staff time, or portable restrooms. Any mitigation fees (traffic control, clean up, replacement of DCR property (benches, building elements, etc.), repair of landscape elements (grass, trees, bushes, etc.)) will be required to be provided or paid in advance or at the final walkthrough with DCR staff before the end of the permitted use.
- ❖ The permit fees shall be paid in advance of the start of the permitted use at DCR offices in Boston after a Permit is approved. For longer periods of use, DCR may consider taking a partial period fee in the form of a deposit and regular payments to be completed prior to the end of the permit term.
- ❖ Cancellation of use. Use fees will not be returned if the park is open and available for use. DCR may allow a permittee to change daily or one week use time periods if possible. If another permittee is

using the property or it is unavailable on the new proposed day or week, DCR may return a use fee and permittee can submit a new application for another time or location. For longer terms of monthly or multiple months, no fees will be returned unless cancelled within seven (7) business days of approval of the permit. The 2009 Mass Substitute Form W-9 from you, the Permittee, is requested in the case of the necessity of returning funds.

Please attach:

Certificate - submitted at least 14 *days prior to* your program for your permit to be issued.

- ❖ All promotional information, site signage, registration form, and form of liability waiver to be Report Form.

### **PERMITTEES EMPLOYEES/STAFF**

The Permittee shall be responsible for its employees, in providing food or drink to the public. Permittee shall have sufficient numbers of staff to provide an efficient service to the public. All employees shall wear identifiable uniforms or an article of clothing or carry approved company identification to exhibit to the Park Supervisor, law enforcement, and members of the public.

Permittee shall be responsible for CORI/SORI review of the operator or any employees and compliance with any restrictions, conditions or court orders associated with such status. No person banned from DCR parks may be a permittee or employed by permittee. No current DCR employee may be an employee of Permittee's business under this Permit without proper disclosure and approval. See M.G.L. c. 268A (laws governing ethics and conduct of state employees).

Any Permittee that is currently providing goods or services to the DCR as a vendor, consultant, contractor or subcontractor, employee or immediate family member of an employee, or in any other capacity, should disclose all projects or contracts that the permittee is performing or entered into with the DCR or any other Commonwealth agency or entity, and the Permittees plan to address and resolve such conflicts of interest, if any. The DCR reserves

the right, in its sole discretion, to request additional information from a Permittee on potential conflicts of interest and to limit or prohibit the participation of any permittee due to any conflict of interest or appearance of such. To the extent that M.G.L. c. 268A may be applicable, the Permittee and its officers, agents and employees shall be fully responsible for ensuring their compliance with the requirements of said chapter 268A.

### **CONDITION OF PREMISES**

The Permittee acknowledges that it has made an inspection of the Premises and that the Premises is in a satisfactory condition, suitable for the purposes of this Permit in its existing condition,

and that it has not relied upon representations or statements of the DCR, its officers, employees or agents with respect to these conditions. The Permittee expressly agrees that the DCR has no obligation to make any alterations, repairs, additions, or improvements to the Premises.

Permittees are required to assess their need for equipment as well as the proper storage and removal of such equipment considering other uses and users of the park and buildings. Proposers should consider the security of such equipment. DCR will not be responsible for damaged or stolen equipment. DCR makes no representations about the safety or security of the Premises.

Permittee is reminded that weather and other events may adversely affect the number of visitors to the premises. Consequently, DCR will not return fees for weather related diminutions in business income or for any event not in the control of the DCR. DCR will not guarantee numbers of visitors, types of events, or lack of competition at this location. DCR does not guarantee unfettered access to the Premises or parking for permittee, its staff, guests, invitees or visitors.

The location of the Permitted Activity shall be determined solely at the discretion of the appropriate Park Supervisor or designated DCR staff member, this will be communicated to the Permittee by the Short-Term Commercial Permit Coordinator. The aforementioned DCR Park Supervisor may change the location of the Permitted Activity at any time during the Term of this Permit. The Permittee shall

strictly comply with the instructions of DCR Park Supervisor.

No public address system amplified sound or signs, or amusement, video, electronic or coin-operated games or machines shall be permitted on the Premises without the prior approval of authorized DCR staff. Any music used within the Premises shall have final approval of the DCR.

The Permittee shall not store any items at the Premises. All related deliveries shall be made in such a manner as to have the least negative impact on the visiting public.

The Permittee shall be solely responsible (financially and for labor costs) for any damage, destruction, vandalism or similar caused to the Premises by the Permittee, its members, guests, business invitees, agents, employees or similar. Any damage shall be immediately repaired to the satisfaction of the Park Supervisor and Regional Manager. Said repairs shall be performed immediately.

### **CONSTRUCTION**

No construction, excavation, planting (i.e. poles), moving of any DCR equipment or site feature or element for any reason or use under this Permit is allowed. Any tents or temporary structures must have prior written approval of DCR staff and if applicable, local authorities.

### **UTILITIES**

The Permittee shall be responsible for all costs associated with use, installation, maintenance, repair and use of all utilities or generators within and on the Premises, unless otherwise agreed to by the Parties. The Permittee shall be responsible for all costs of water, sewerage, electricity, fuel, oil, telephone, or any utility used and consumed in connection with the operation of the Premises, and in connection with all structures located thereon. When applicable, once invoices are received for the consumption of utilities, the Permittee shall make prompt payment to the provider of said utilities with proof of payment to DCR.

### **EQUIPMENT MAINTENANCE AND REPAIR; LEASED EQUIPMENT – Fixed Locations, Large Mobile Equipment**

Any and all equipment and structures on the

Premises used by the Permittee to perform the activities authorized by this Permit shall be maintained in good operable condition by the Permittee. All such equipment shall be cleaned, tested and repaired by the Permittee, who shall bear all costs related to such repairs.

Any damage to any structure on the Premises or surrounding area caused by the installation or removal of equipment by the Permittee shall be repaired to a condition satisfactory to the DCR at the Permittee's sole expense.

The Permittee shall identify and notify DCR of any leased equipment to be used on the Premises prior to the execution of the permit or

whenever acquired by Permittee. The Permittee shall be solely responsible for any obligations under any leases. Vending machines, if any are approved, shall be operable whenever the Premises are available to the public. The Operator shall be solely responsible for the installation and maintenance (cleaning, filling, repairs, etc.) of the Machines.

Advertising on leased equipment shall be kept to a reasonable amount and pre-approved by DCR's External Affairs Department per Section 11 below. At the termination of this permit, it will be Permittee's responsibility to fulfill any remaining obligations under the lease arrangement prior to Permittee vacating the Premises.

Any equipment that is affixed in a permanent manner including but not limited to: poles, netting, plumbing fixtures, sinks, hard-wired appliances, hookup openings, built-in refrigeration equipment, or exhaust, fume, and fire suppression systems, poles, awnings, fences, etc. affixed to a wall, ceiling, or in or on the grounds of the Premises shall become the property of the Commonwealth unless otherwise agreed in writing by the parties.

### **ADVERTISING; MARKETING**

The DCR shall pre-approve all proposed on-site advertising, including advertising directly related to the services authorized herein. Said advertisements, signs, circulars, brochures, letterheads and like materials are subject to and conditional upon written pre-approval of the Commissioner of DCR after review and approval by the Office of External Affairs, Legal and the Office of Leases and Permits.

The Permittee, in its advertisements, signs, circulars, brochures, letterheads and like materials, as well as oral representations, shall not misrepresent in any

respect the facilities provided or the status or condition of the Premises. The fact that the Premises constitutes Commonwealth parklands under the care and control of the DCR shall be made apparent in any brochures and advertising regarding use and management of the area and facilities.

The DCR reserves the right to develop "marketing partnership" agreements identifying specific brands

as the "designated" sponsors of the DCR.

The DCR may require that the Permittee limit competing forms of advertisement at the request of a sponsor for certain events or certain periods of time.

The Permittee shall, at its sole expense and subject to the approval of the DCR, post the names and prices of products sold on the Premises on printed signs. No handwritten signs shall be permitted on the Premises.

The Permittee shall withdraw any advertising or desist from any promotional activity, upon request from the DCR, should the DCR determine that such advertising or promotional activity is inappropriate or causing undue litter or is in conflict with any other policy, regulation or law.

The DCR retains the right to refer to the facilities or Permitted Activities on the Premises in any advertising or promotional activity of or as its own.

The graphics and verbiage on signage directing members of the general public to the Premises shall be developed by the Permittee at its sole expense, with the input and pre-approval of the Commissioner of DCR and Director of External Affairs and shall be placed in locations authorized by the Mass Parks Region managerial staff.

## **INSURANCE**

Permittee must carry the following minimum amounts of insurance.

The Permittee shall carry insurance at minimum in the types and amounts as described in this section of the Permit at its own expense:

Commercial General /Public/Products Liability or Business Owners Insurance. The Permittee shall carry appropriate liability insurance as to third persons and products liability (if offering products

for consumption or use) insurance against claims based upon the services provided in the minimum amount of One Million (\$1,000,000.00) Dollars per occurrence and a minimum of Two Million Dollars (\$2,000,000.00) Dollars in the aggregate, or such higher amounts of liability insurance coverage the DCR shall reasonably require from time to time. This insurance must be primary and non-contributory.

Insurance for Commonwealth Property (fire and casualty, if applicable). The Permittee shall furnish proof of property damage insurance for

Commonwealth and DCR equipment in the minimum amount of Two Hundred Fifty Thousand (\$250,000.00) Dollars for outdoor locations and uses and Five Hundred Thousand (\$500,000.00) dollars for facility or indoor locations and uses or such higher amounts of insurance coverage the DCR shall reasonably require from time to time.

- i. Additional insurance as applicable. Permittee should consult with insurance and legal professionals to ensure they have any other insurance, additional endorsements, or gap coverages in place that would be prudent to carry for the type of insured, proposed use, and location, i.e. its own equipment replacement or damage, worker's compensation, motor vehicle, business risk/loss, officers and directors, vandalism, wind, flood, etc.

The Commonwealth of Massachusetts, Department of Conservation and Recreation shall be explicitly named as an additional insured on all insurance policies. The location of the permitted activity and Short-Term Commercial Permits shall be made apparent on the certificate of insurance.

The Permittee shall furnish Certificates of Insurance issued by an insurer or insurers qualified to do business in the Commonwealth to the following DCR offices prior to execution of the Permit:

- 1) Short Term Commercial Permits  
Office: 617.418.9717  
E-Mail: Lori.George@mass.gov
- 2) REGION OFFICE/Park Supervisor

Failure to furnish or maintain said policies of insurance for the entire term shall be deemed a material breach of the Permittee's duties under this Permit.

If the Permittee's insurance provisions, terms,

coverage, etc. are amended, changed, suspended, expired or cancelled in any fashion, the Permittee must purchase a notice endorsement from its insurer to ensure DCR receives prompt notice of such action. Non-renewal or termination of insurance shall result in immediate termination of the Permit and use.

## **INDEMNIFICATION**

Permittee hereby agrees to indemnify, defend and hold the Commonwealth, the DCR, its employees and agents harmless against all claims relating to or arising out of the use of DCR property and from any claims for personal injury or death or damage to personal property, of whatever kind or nature, arising from the permittee's activities in the permitted area, including, but not limited to, claims arising from the recklessness, negligence or carelessness of the permittee, its contractors, agents, representatives, employees, permittees, licensees, guests and invitees, as authorized therein and claims arising from the permittee's failure to provide adequate security in the permitted area. The DCR may also require the permittee to obtain liability insurance with limits of coverage sufficient to support the permittee's obligation to indemnify and hold the Commonwealth and DCR harmless.

The permittee hereby agrees not to make any claims against the Commonwealth or the DCR for any injury, loss or damage to persons, including, but not limited to, bodily injury or death, or damage to property arising out of or in connection with the actions or omissions of the permittee, its contractors, agents, representatives, employees, permittee, licensees, guests and invitees, as authorized therein.

The permittee hereby assumes all risk in connection with any and all activities engaged in within the permitted area and shall be solely responsible and answerable in damages, and any other equitable remedies, for all accidents or injuries to all persons or property caused by the permittee's activities.

The Permittee shall waive any and all claims for compensation for any and all loss or damage sustained by reason of any interference by any public agency or official in the operation of this Permit.

These indemnification provisions are independent of and shall not in any way be limited by the insurance requirements of this Permit. DCR approval of the insurance contracts required by this Permit does not in any way relieve Permittee from liability under this section. The obligations of the Permittee under this

section shall survive the expiration or termination of this Permit.

**Paid Participation Limitation of Liability.** Permittee acknowledges that the event or use permitted hereunder may include participation by members of the public who will pay Permittee a fee to participate, and that the Permittee will pay DCR the agreed upon permit fee for this event or use. Subject to all applicable local, state and federal laws, including the Massachusetts recreational use statute (MGL ch.21, § 17C), and any limitation of statutory protection for DCR and the Commonwealth due to the payment of fees by Permittee and/or by event participants, Permittee hereby indemnifies and holds harmless DCR and the Commonwealth against any and all claims that may arise from the event or use that could otherwise be subject to statutory limitation of liability under MGL ch.21, § 17C, or otherwise.

## **COMPLIANCE WITH LAWS**

**The Permittee shall comply with all federal, state, local, other governmental.**

regulations and ordinances affecting the Premises and the Permittee's activities thereon and shall cause its employees, contractors and agents to do the same.

If the Permittee is notified by any regulatory agency having authority over the Premises that the Permittee's operations are in violation of an applicable rule, regulation or statute, the Permittee shall take immediate action to cure said violations. If the Permittee fails to take prompt remedial measures, the DCR may suspend or terminate the Permittee's operations on all or any part of the Premises.

## **LICENSES AND PERMITS**

The Permittee shall obtain, at its own expense, and maintain all permits, licenses, and approval, etc., required by the federal government, the Commonwealth, local municipalities, or similar authorities for its operation on the Premises.

Permittees should carry and maintain all relevant industry certifications (i.e. fitness instructor, CPR, etc.) throughout the term of this Permit as purported to be held at the beginning of the term.

Failure to obtain any required permits, licenses, etc. prior to operation of facilities for which permits are required, or failure to maintain such licenses in full effect throughout the Term of this Permit shall be cause for termination of this

Permit by the DCR.

If permittee is notified by any authorized federal, state, local or DCR person of a violation or compliance matter related to Permittees use, permittee shall immediately contact all of the following by e-mail and telephone: the Mass Parks Park Supervisor, District Manager, Region Manager, and Office of Short-Term Leases and Permits. Contact information is attached to this Permit.

### **HAZARDS AND REPORTING SYSTEM**

The Permittee shall periodically inspect all areas used by the public in and around the Premises for the presence of unsafe or hazardous conditions (including but not limited to dangerous trees, hanging limbs, unsafe items) and shall promptly report the conditions to the DCR Park Supervisor. The Permittee shall develop an accident reporting system and shall ensure that all employees understand and comply with said system. The Permittee shall make and preserve records of all accidents, emergencies, and administration of medical aid on Premises.

The Permittee shall immediately (within one (1) hour) verbally notify DCR staff of any injuries, closures, property damage or related incidents that occur on the Premises as a result of the Permitted Activity and shall provide written notice to the DCR within forty-eight (48) hours of said incident. The written notice shall provide a detailed account of the incident including but not limited to the nature of the incident, the names of any individuals involved and the names of any and all witnesses, all phone numbers, addresses and contact information of affected individuals and witnesses and the names of any agencies (federal, state, and/or local) that responded to the incident.

### **HEALTH, ENVIRONMENTAL AND SANITARY STANDARDS**

The Permittee shall be responsible for all cleaning, housekeeping and sanitation, related to its use and shall maintain high standards of housekeeping and sanitation at all times in all areas of the Premises, in accordance with all applicable laws and regulations, and to the satisfaction of the Park Supervisor. The Permittee shall be responsible for all litter pickup, off site trash disposal, cleaning, housekeeping, and sanitation related to its use within the

Premises and within a reasonable radius of the Permitted Activity area as designated by Park Staff. The DCR shall have the right to inspect the level, frequency and competency of housekeeping and sanitation being performed at any time without prior notice. **DCR requires that the permittee act as a partner in keeping trash and litter to a minimum whether or not created by its use or invitees.**

Garbage and trash shall be disposed of by the Permittee at a minimum of once daily by removing it from the Premises to an authorized disposal area, other than a DCR receptacle. Said removal and disposal shall be at the Permittee's expense. At the end of the operating day, the Premises shall be left in a clean and orderly condition and secured in a professional manner that is acceptable to the DCR Park Staff.

The Permittee shall when possible, recycle all cardboard and plastic materials used in the Permitted Activity and shall encourage its vendors and patrons to do the same. Other recycling (i.e. food waste or other items) may require additional licenses and permits from other entities (local ConComm, Mass. Department of Environmental Protection, etc.) and shall be properly disposed according to local or state ordinance, bylaw, regulation or law. Any such permits shall be obtained by the Permittee after notice and approval by DCR in writing. Knowledge of applicable laws is the burden of the Permittee. Any cooking oils shall be deposited and disposed of in accordance with all applicable health, environmental and sanitary standards. Any cooking oils shall not be deposited or disposed of on the Premises or on any Commonwealth property. Any associated drains and exhaust, trap equipment on the Premises shall be cleaned and maintained properly on a regular basis by the Permittee at its expense.

The Permittee shall strictly comply with all health, environmental and sanitary standards and conditions required by applicable local, state and federal, ordinances, by-laws, statutes and regulations including but not limited to state health related laws, state health department regulations, DCR regulations, local bylaws and applicable environmental and administrative orders. The burden of compliance and knowledge of such rules and regulations lies with the Permittee as an operator of a business requiring such compliance.

As applicable for food trucks, mobile carts with engines, etc., Permittee shall control and avoid unnecessary engine idling which can be a significant source of air pollution, particularly for people near the source. M.G.L Chapter 90, §16A, provides that:

*No person shall cause, suffer, allow or permit the unnecessary operation of the engine of a motor vehicle while said vehicle is stopped for a foreseeable period of time in excess of five minutes.*

Electric sources for permittee power or mitigation of exhaust should be explored and used. DCR does not guarantee secondary sources of power. The burden of outfitting the vehicle and obtaining such power is on the Permittee.

#### **USE OF HAZARDOUS SUBSTANCES OR CHEMICALS**

- b. The Permittee shall not use, release, discharge or similar, hazardous substances or chemicals or materials that cause undue harm to persons or the environment, including but not limited to oil, cleansers, pesticides, and contaminated food related items.
- c. Only those materials approved and registered by the U.S. Environmental Protection Agency for the specific purpose planned shall be considered for use on the Premises. Label instructions shall be strictly followed in the preparation and application of pesticides and other hazardous substances and disposal of excess materials and containers. Any and all applications shall be duly licensed by the Commonwealth and EPA and any other applicable agency or entity. The burden of compliance and knowledge lies with the Permittee as an operator of a business using such substances and requiring such compliance.

#### **ACCESS AND INSPECTION; REPORTS**

The Commonwealth, its agents, employees, and contractors, shall be given full and unrestricted access to and upon the Premises at all times during the Term of this Permit to inspect the Premises and to inspect the operations and equipment of the Permittee.

DCR may ask permittees for information about general sales, customer numbers, etc. to assess visitors, staffing and other reporting to DCR oversight agencies. A Summary Reporting form is attached hereto.

#### **LAND MARKERS AND MONUMENTS**

The Permittee shall take reasonable precautions to protect all public land survey monuments, public land boundary markers, and private property corners. In the event that any such markers or monuments are disturbed or destroyed, the Permittee shall give notice (within twenty-four (24) hours) to the DCR Park Supervisor immediately and take appropriate action to guard them from further disturbance at the direction of the Park Supervisor or other authorized Commonwealth staff.

#### **NON-DISCRIMINATION**

The Permittee shall acknowledge that there shall be no discrimination against any employee who is employed in the work covered by this Permit, or against any applicant for such employment, based on race, color, religion, sex, sexual orientation, age, national origin, veterans' status, or physical or mental handicap. This provision shall include, but is not limited to, the following: upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

The Permittee acknowledges that there shall be no discrimination against any customer or potential customer of the Permittee based on race, color, religion, sex, sexual orientation, age, national origin, veterans' status, or physical or mental handicap.

The Permittee shall comply with all applicable federal and state statutes and rules and regulations promulgated thereunder prohibiting discrimination in employment.

In the event that a claim is filed against the Permittee with the Massachusetts Commission Against Discrimination (hereinafter the MCAD) or any court of the Commonwealth, the Permittee shall cooperate fully with DCR, the MCAD, or any court of the Commonwealth in the investigation and disposition of the claim. The Permittee shall assume all legal fees and costs in connection with the defense of such claim.

In the event of noncompliance with provisions of this section, the DCR may impose such sanctions as it deems appropriate, including but not limited to immediate termination or suspension of this Permit.

#### **TERMINATION**



This Permit shall terminate on the date and time set forth in the Application and Section 1 of this Permit.

The DCR may terminate the Permit without penalty for or in the event of an elimination of an appropriation or availability of sufficient funds for the purposes of this Agreement, or in the event of an unforeseen public emergency mandating immediate DCR action.

Permittee expressly agrees that neglect or failure to perform any of its agreements or obligations under this Permit shall be a material breach of this Section and will surrender the Premises in a condition satisfactory to the DCR and without damage to the Premises.

The Permittee may terminate this Permit upon no less than forty-eight (48) hours prior to a daily or weekly use/program; and no less than seven (7) days for a monthly start; and no less than thirty (30) days prior to a six-month program start, by sending written notice to the Park Supervisor, the Region Manager, and the Office of Long Term Leases and Permits. Any walk through, clean up, repairs and final payments shall be made during that period.

Use fees will not be returned if the park is open and available use. DCR may allow a permittee to change daily or one week uses if possible. If another permittee is using the Premises or area planned for the Permitted Activity or it is unavailable on the new proposed day or week, permittee can submit a new application for another time or location. For longer terms of monthly or multiple months, no fees will be returned unless cancelled within seven (7) business days of approval of the permit.

Upon termination, permittee shall leave the Premises in "broom clean" condition for fixed locations and in a natural condition for outdoor locations. Broom clean shall mean no debris, oil, containers, items of any kind, left behind; and aside from reasonable wear and tear, in a condition for use by DCR or any other user. Excessive damage or repair costs incurred by DCR may be charged to the permittee. Failure to leave the premises in a reasonably clean condition may result in denial of use of the Premises or other DCR properties and in certain cases additional fees. DCR will make an effort to collect such fees after the fact. The condition and any mitigation or repairs may be determined by

the Park Supervisor with Permittee prior to the end of the Permit. Any fixtures to walls or the ground shall either remain as fixtures or upon agreement of the parties shall be removed promptly (no more than one (1) calendar day after termination of this Permit) unless otherwise agreed by DCR and the Permittee.

## **STATUS OF PERMITTEE**

The relationship of the Permittee to the Commonwealth of Massachusetts and the DCR is that of a licensee to a licensor.

breach and cause for immediate termination in accordance

The Permittee covenants that it will conduct itself consistent with such status, that it will neither hold itself out nor claim to be an officer or employee of the Commonwealth by reason hereof, and that it will not, by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the Commonwealth of Massachusetts including, but not limited to, Workers' Compensation Coverage, unemployment insurance benefits, social security coverage, retirement membership or credit of any kind.

Nothing herein contained shall create or be construed as creating a legal partnership between the DCR and the Permittee, or to constitute an agency with the Permittee as an agent of the DCR or the Commonwealth.

The Permittee acknowledges that this Permit does not confer any rights in real property to the Permittee.

As a licensee, the Permittee may enter and use the Premises solely for those purposes and pursuant to the provisions contained in this Permit.

Any use of the Premises by the Permittee that is inconsistent with the terms of this Permit shall be deemed a material breach of the Permittee's authorized use under this Permit and constitutes grounds for termination of this Permit.

## **ASSIGNMENT AND SUBLETTING**

The Permittee shall not assign, transfer, delegate or otherwise dispose of its management responsibilities or of any right, interest or use of the Premises covered by this Permit without the prior non-electronic written consent of the DCR issued by the Region Manager and/or the Office

of Short-term Leases and Permits.

Any such disposition without the written consent of the DCR shall constitute a material breach of this Permit which shall be cause for immediate termination of the Permit by the DCR.

The DCR shall not be obligated to recognize any.

right of any person or entity to any interest

in this Permit or to any rights, equipment, structures, or property of the Permittee at the Premises. Any unapproved assignments of rights under this Permit are void. This Permit is non-assignable because it is a personal services contract and an

assignment will be a material change to the DCR's duty, risk and chance of receiving return performance (e.g. compensation).

The Permittee may not enter into any agreement with any entity or person except employees of the Permittee to exercise substantial management responsibilities for operation of the Premises without the prior non-electronic written consent of the DCR Commissioner or the Commissioner's designee.

In the event of any unapproved or prohibited transfer or encumbrance by the Permittee, or in the event of any default of its obligations to persons or entities which are not a Party to the Permit, such person or entity shall not be deemed to have acquired operating rights, privileges, to operate at the Premises or to any real property of the DCR.

There are no third-party beneficiaries to this Permit.

#### **OWNERSHIP; CORPORATE STATUS; CONFLICT OF INTEREST**

The Permittee agrees it will notify DCR of any change in its ownership or corporate status prior to such change. Insurance shall be held in the current name of the Permittee at all times. Permittee shall maintain its ownership or corporate status with all applicable state agencies (Massachusetts Secretary of State, MA Attorney General's Charities Division, etc.).

The Permittee shall furnish to the DCR a list of its directors, officers or managing members, partners and their contact information, and shall promptly notify the DCR of any changes in ownership or corporate status or any change in its Board of Directors, officers, managers or partners.

#### **WAIVER**

No waiver of any term, condition or covenant of this Permit, by either Party at any time, shall be deemed a waiver at any time thereafter of the same provision or of any other provision contained herein or of the strict and prompt performance thereof.

#### **FORCE MAJEURE; DCR LEGISLATIVE LIMITS**

Neither Party shall be liable to perform under this Permit when such failure is due to fire, war, riot, insurrection and/or other catastrophe beyond the control of the Parties.

All obligations at the site(s) of the DCR hereunder are subject to the availability of funds and to such direction and instructions as may have been or are hereinafter provided by the Governor or the General Court.

### **MERGER CLAUSE, ATTACHMENTS**

Attachments to this Permit are hereby incorporated by reference and become part of this Permit. Any failure to comply with the terms and conditions contained in any agreed upon Attachment by either Party constitutes a breach of this Permit. The Attachments are intended to be used to clarify the terms of this Permit. In the event there is an irreconcilable conflict between the terms of this Permit and those contained in any Attachment(s), the terms contained in this Permit shall supersede.

The provisions of this Permit shall collectively constitute the agreement between the parties for the use of the Premises. Any prior or contemporaneous oral or written statements that alter, contradict, or are in addition to the terms of this Permit are inadmissible. In the event of a conflict between any provision of this Permit and the Application the provisions of this Permit shall govern.

### **FORUM**

Any actions arising out of this Permit shall be governed by the laws of Massachusetts without regard to its conflict of laws principles.

### **SEVERABILITY**

If any provision of this Permit, or portion of such provision, is deemed invalid or unenforceable, the remainder of this Permit shall continue in full effect.

### **MODIFICATIONS OR AMENDMENTS**

Modifications or amendments to this Permit shall be in non-electronic writing and duly executed by authorized signatories of DCR and the Permittee to be effective.

### **NOTICE**

For purposes of this Permit, the Parties hereto

shall be deemed duly notified of any information or issues arising from the operation under this Permit in accordance with the terms and provisions hereof only if written notices are by e-mail, to the following persons at the indicated addresses, subject to change upon notice in writing to that effect by either party:

### **EXHIBITS/ATTACHMENTS**

Contact Sheet

Insurance

Form W-9 (use this specific form

Premises Map, Photos, etc.

Original Application, proof of payment

Promotional Information, if any

Summary Report Form

Permit

DEPARTMENT OF CONSERVATION AND RECREATION

By: \_\_\_\_\_ (Printed

Name and Title) \_\_\_\_\_

Date: \_\_\_\_\_

SIGNATURES

PERMITTEE

\_\_\_\_\_  
Signature Printed name Title.

Date: \_\_\_\_\_ Duly

\_\_\_\_\_  
Authorized

**Office of Short-Term Commercial Permits**

Office of Short-Term Commercial Permits,  
Department of Conservation and Recreation

E-Mail: [lori.george@mass.gov](mailto:lori.george@mass.gov)

**Special Events (Concerts, Races, Films, Etc.)**

Janice Parlon, Special Events Manager  
Department of Conservation and Recreation

E-Mail: [jparlon@mass.gov](mailto:jparlon@mass.gov)

**IN CASE OF EMERGENCY CALL 911 FIRST; THEN CALL DCR STAFF**

**IN CASE OF BOMB THREAT CALL MEMA DISPATCH AT:**

**MEMA Emergency Dispatch Number: 1-508-820-1428**

Dennis Fitzpatrick

Emergency Preparedness and Response Coordinator

Department of Conservation and Recreation

Tel: 617-636-1302.

