POLO FIELD CONCERT USE PERMIT

This Polo Field Concert Permit (this "Permit" or the "Polo Permit"), dated for reference purposes only as of July 1, 2023, is by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("City" or "Landlord"), acting by and through its Recreation and Park Department (the "Department"), and ANOTHER PLANET ENTERTAINMENT, LLC, a Delaware limited liability company ("Permittee").

RECITALS

A. City and Permittee entered into that certain Use Permit, dated for reference purposes as of April 1, 2009, as amended by the First Amendment dated December 5, 2012 and the Second Amendment dated July 15, 2019 (collectively the "OSL Permit"), pursuant to which City granted to Permittee the right to hold an annual three-day music and arts festival in Golden Gate Park through 2031, which is known as San Francisco's Outside Lands Music and Arts Festival ® (the "Festival" or "OSL Festival"), all as more particularly described in the OSL Permit.

B. The Department is facing significant budget constraints in 2024-2025 due to reduction of general fund support and increased labor and health care costs. In order to ensure the current maintenance of our park system and robust recreation programming, the Department has looked for opportunities to increase revenues to cover shortfalls starting in 2024.

D. City and Permittee presently desire to enter into a new permit, separate and apart from the OSL Permit, in order to provide for the production of concerts in the Polo Field (the "Polo Field Concerts") over each of the weekends immediately following the OSL Festival in 2024, 2025 and 2026 all on the terms and conditions set forth below.

E. The Polo Field Concerts will use infrastructure installed each year for the OSL Festival in order to reduce the amount of load-in and load-out time and the impact on the park and park users.

AGREEMENT

NOW THEREFORE, City and Permittee hereby agree as follows:

Incorporation of OSL Permit: All provisions of the OSL Permit, including the exhibits thereto, are hereby incorporated into this Polo Permit, except as described below (note that nothing in the Polo Permit will modify in any way the OSL Permit as it applies to the OSL Festival):

1. **Basic Permit Information.** Section 1 Basic Permit Information of the OSL Permit is replaced with the following:

   The following is a summary of basic permit information (the "Basic Permit Information"). Each item below shall be deemed to incorporate all of the terms set forth in this Polo Permit pertaining to such item. In the event of any conflict between the information in this Article and any more specific provision of this Polo Permit, the more specific provision shall control for the Polo Field Concerts (the "Polo Field Concerts Basic Permit Information"):

City:	CITY AND COUNTY OF SAN FRANCISCO, acting by and through the San Francisco Recreation and Park Department
Permittee:	Another Planet Entertainment, LLC., a Delaware limited liability corporation (also referred to as "Another Planet")
Premises:	The certain portion of the premises called the Polo Field and a portion of Lindley Meadow, the areas in Golden Gate Park that connect those areas, as shown in **Exhibit A** attached hereto ("GG Park Map")
Permitted Use:	Production of 2 one-day concerts open to the public upon purchase of tickets. Permittee has the option to produce one additional one-day concert. Concerts must be held on the Friday, Saturday and/or Sunday following the annual OSL Festival of that year. The main stage in the Polo Field and other infrastructure from the OSL Festival will remain on site and will be used for the Polo Field Concerts. Other installations may occur in the Polo Field and an entrance will be created in Lindley meadow all as shown in Exhibit A. The installations will include but are not limited to: • The Main Stage on the western end of the Polo Field (using the same stage as the OSL Festival); • Food and beverage booths including beer, wine and spirits using many of the same installations as the OSL Festival • Fencing around the entire area which will be considered a beer garden. • VIP and ADA viewing platforms using the same installations as the OSL Festival. • Video monitoring screens. • Portable restrooms. Set up will occur during the take-down of the OSL Festival. Permittee must remove all set up in the Polo Field and Lindley meadow by the 10:00 p.m. on the Wednesday following the conclusion of the Polo Field Concerts. Permittee is permitted to sell alcoholic beverages and allow amplified sound at the Polo Field on the same terms and conditions as set forth in

	the OSL Permit. Permittee shall not allow more than 65,000 paid attendance per day.
Polo Field Concerts Permit Fees and Financial Terms:	**Minimum Permit Fee** 2024 Minimum Permit Fee is $1,400,000 for 2-day event and an additional $700,000 for a third day. The Minimum Permit Fee shall increase annually starting in 2025 by $42,000 per year for two days and an additional $21,000 for the third day. **Percentage Rent** 5% of the sum equal to gross ticket revenue received from the Polo Field Concerts excluding any complimentary tickets and any reasonable and customary third-party service charges or convenience fees (the "Gross Revenue"); less the Minimum Permit Fee paid by Permittee for such year [i.e., Permittee shall pay the greater of 5% of Gross Revenue or the Minimum Permit Fee for each year of the Polo Field Concerts, in other words, whichever is higher].
Operating and Outreach Requirements	Permittee shall comply with all Operating and Outreach Requirements as set forth in the OSL Permit, as though such requirements were set forth herein, and in addition will conduct a meeting relating to the Polo Field Concerts at least four months prior the first year of Polo Field Concerts to discuss the impact and ways to mitigate the impact of the event.
Term:	The Polo Field Concerts shall be held in 2024, 2025 and 2026. The Permittee must notify the Department by May 1 of each year of the specific dates of the Polo Field Concerts for that year. The Term of this Polo Permit shall commence on the Effective Date and shall expire on the date when the load-out is to be completed for the 2026 Polo Field Concert.
Amplified sound terms:	Amplified Sound may occur between 2:00 p.m. and 10:00 p.m. each day. Permittee shall also comply with the amplified sound terms set forth in Section 47 of the OSL Permit and the Operating and Outreach Requirements attached as Exhibit B of the OSL Permit.
Utilities	City shall make available to Permittee existing utility connections, without any representation or warranty.
Insurance Limits:	Insurance for the Polo Field Concerts will be at the same level of coverage and other terms and conditions as insurance for the OSL Festival pursuant to Section 17 of the OSL Permit.

Address for Notices:	Recreation and Park Department: Director of Property and Permits and Reservations Recreation and Park Department 501 Stanyan Street San Francisco, CA 94117 Phone: 415.831.6868 Permittee: Another Planet Entertainment, LLC 1815 Fourth Street, Suite C Berkeley, CA 94710 Attention: Allen Scott Phone: 510.548.3010
Payment schedule:	50% of the Minimum Rent shall be due by June 15 of each year with the remainder of the Minimum Rent due no later than ten (10) days before the Polo Field Concerts scheduled start date for that year. Permittee will be able to access the Premises to prepare and set up for each of the Polo Field Concerts only if the Minimum Rent has been received. Reimbursement of the Park's reasonable and customary expenses as well as any Percentage Rent will be due and payable within ten (10) days from the conclusion of the last Polo Field Concerts day scheduled for that year.
Security Deposit:	Permittee will not be required to pay a Security Deposit for the Polo Field Concerts. To the extent that there is a breach for which the City would be able to look to a Security Deposit, the parties agree that the existing Security Deposit of $30,000 under the OSL Permit is available to the City for off-set. (See Section 31 of OSL Permit)
Termination Rights	Without limiting City's other rights and remedies hereunder, City shall have the right to terminate this Polo Permit at any time if Permittee has failed to cure a material breach of this Polo Permit following written notice from City and the expiration of any applicable cure period. City shall have the right to terminate this Permit as set forth in Section 18 of the OSL Permit.

2. **Polo Field Concerts**. For purposes of the Polo Permit, references to "Festival" in the OSL Permit (including the exhibits to the OSL Permit) shall refer to the Polo Field Concerts.

3. **License of Premises**. Section 2 of the OSL Permit is replaced in full as follows with respect to the Polo Field Concerts:

a. City grants to Permittee a personal, non-exclusive and non-possessory license to enter upon and use the Premises described in the Polo Field Concert Basic Permit Information for the limited purpose and subject to the terms, conditions and restrictions set forth in this Polo Permit. This Polo Permit does not constitute a grant to Permittee of any ownership, leasehold, easement or other property interest or estate in the Premises. City is acting only in its proprietary capacity in granting the license given to Permittee under this Polo Permit. Permittee acknowledges that: (i) such grant is effective only insofar as Recreation and Park Department's rights in the Premises; and (ii) Permittee must separately obtain all regulatory approvals of City, including Recreation and Park Department, and any other applicable approvals of the governmental entity necessary for the permitted uses. Permittee shall bear all costs or expenses of any kind incurred by Permittee in connection with its use of the Premises or any other property, and shall keep the Premises free and clear of any liens or claims of lien arising out of or in any way connected with its use of the Premises. In connection with its use hereunder, Permittee shall at all times, at its sole cost, maintain the Premises in a good, clean, safe, secure, sanitary and sightly condition, so far as the Premises may be affected by Permittee's activities.

b. The Premises are granted to Permittee for a term commencing on the date specified in the Polo Field Concerts Basic Permit Information, or such earlier date upon which City delivers, and Permittee accepts possession of the Premises, and shall end on the expiration date specified in the Polo Field Concerts Basic Lease Information, unless sooner terminated pursuant to the provisions of this Polo Permit.

4. **Permit Fee**: For purposes of the Polo Permit, Section 9(a), (b) and (c) Permit Fee of the OSL Permit is replaced in full with the following (other subsections of Section 9 are unchanged):

a. **Minimum Permit Fee.** Permittee shall pay to Recreation and Park Department permit fees in the amount set forth in the Polo Field Concert Basic Permit Information for its use of the Premises as provided hereunder. Permittee will be able to set up only if the full Minimum Permit Fee has been paid to City as and when required hereunder. However, such permit fee shall be immediately returned by City to Permittee upon cancellation of any of the Polo Field Concerts due to a Force Majeure, as set forth in Section 22 (as amended by Section 9 herein). If such Force Majeure Event as specified under Section 22, as amended occurs during the presentation of the Polo Field Concerts, then the Minimum Permit Fee amount to be returned will be prorated to reflect the percentage of the Polo Field Concerts not completed. Permittee shall pay all applicable City departments for the reasonable and customary costs incurred by those departments in providing City employees, equipment, property and facilities in connection with this Permit as it relates solely to the operation and production of the Polo Field Concerts.

b. **Percentage Rent**. In addition to Minimum Permit Fee, Permittee shall pay the amount of percentage rent ("Percentage Rent") over the Minimum Permit Fee as set forth in the Polo Field Concerts Basic Permit Information. Percentage Rent shall be the amount equal to five percent (5%) of gross ticket revenue received from the Polo Field Concerts minus any applicable ticket taxes and excluding any

complimentary tickets and any reasonable and customary third-party service charges or convenience fees (the "Gross Revenue"); less the Minimum Permit Fee paid by Permittee for the Polo Field Concerts [i.e., Permittee shall pay the greater of 5% of Gross Revenue or the Minimum Permit Fee for each day of the Polo Field Concerts event, whichever is higher]. Accordingly, if the Minimum Permit Fee is greater than the five percent (5%) of the Gross Revenue, then there shall be no Percentage Rent for that day of the Polo Field Concerts. The calculations for rent payments due hereunder shall be made annually for each year of Polo Field Concerts.

c. **Revenue Reports.** On or before the day that is ten (10) days following each year's Polo Field Concerts, Permittee shall submit to City a report (the "Revenue Report") showing all Gross Revenue from ticket sales, as set forth above, received by Permittee and the total number of tickets sold by Permittee as of such date, together with any such additional information as may be reasonably requested by City for purposes of determining Percentage Rent that may be applicable. Such report shall be certified as being true and correct by Permittee and shall otherwise be in form and substance satisfactory to the General Manager of the Department. With the delivery of each Revenue Report, Permittee shall pay the Percentage Rent.

5. **Community Benefit Funds:** In addition to the community benefits required under Section 25 of the First Amendment to the OSL Permit and Section 10 of the Second Amendment to the OSL Permit, Permittee shall expend $10,000 per year to fund improvements and/or benefit programs serving Districts 1 and 4. Permittee, in consultation with Department staff and District 1 and District 4 staff, will develop and implement a plan for distribution of the community benefit funds. That plan will include:
   - Identifying community priorities;
   - Conducting outreach to make organizations and individuals in District 1 and District 4 aware of the availability of funding, the opportunity to weigh in on community priorities, and the opportunity to submit funding recommendations;
   - Asking for input on community priorities from PROSAC;
   - Developing a methodology for ranking funding recommendations; and
   - Assessing all funding recommendations, and making recommendations to the General Manager, for the General Manager's approval.

6. **Fee Muni Transportation:** In addition to reimbursing SFMTA for the direct costs of Muni Services, the Permittee will fund free MUNI rides to and from the Polo Field for those attending the Polo Concerts.

7. **Free Downtown Concerts:** Permittee will organize three free downtown concerts in which the Permittee will bring a musical act to each of Civic Center Plaza, Union Square and Embarcadero annually for each year of the Polo Field Concerts. The concerts will be held in the Summer/Fall of each year starting in 2024. The Permittee will work with local community and business organizations, but it is expected that the concerts will be on a weeknight from 5 pm to 7 pm and will celebrate local artists or visiting artists. The Permittee will be required to obtain a one-day special event permit for each concert and will not be charged a permit fee for these free concerts but as part of the permit will be required to cover City costs related to the concerts.

8. Sections 42, 43 and 44 of the OSL Permit shall not apply to this Polo Permit.

9. **Force Majeure (Impossibility of Performance).** Section 22 of the OSL Permit shall be replaced with the following for purposes of the Polo Field Concerts: If, for any reason, an unforeseen event occurs which is beyond the control of City or Permittee, including, but not limited to, fire, casualty or labor strike, which event renders impossible the fulfillment of any Polo Field Concerts (or day of any Polo Field Concerts) (such event a "Force Majeure Event), Permittee and City shall have no right to, nor claim for damages, against the other for such failure to fulfill. In addition, if the Polo Field Concerts, or any day thereof, are canceled due to a Force Majeure Event and full refunds are provided, then no Minimum Rent or Percentage Rent will be due and any Minimum Rent or Percentage Rent previously paid will be promptly refund by the City for the portion of the Polo Field Concerts that are canceled. If the Polo Fields Concerts are postponed to the following year, then any Minimum Rent or Percentage Rent paid for the prior year will offset the amounts due for that new year. A Force Majeure Event shall not terminate this Polo Permit as to future Polo Field Concerts which shall remain in full force and effect.

10. **License Only.** Notwithstanding the use of the terms "Percentage Rent," and "Premises" in this Polo Permit, the Polo Permit gives Permittee a license only, and the Polo Permit does not constitute a grant by City of any leasehold or other property interest or estate whatsoever in the Premises, or any portion thereof.

11. **Effective Date.** The effectiveness of this Polo Permit is subject to the following conditions precedent (such date on which all of the following conditions precedent are satisfied is referred to herein as the "Effective Date"): (i) the San Francisco Recreation and Parks Commission shall have adopted a resolution approving the terms and conditions hereof in its sole discretion; and (ii) the Board of Supervisors of the City and County of San Francisco shall have adopted a resolution approving the terms and conditions hereof in its sole discretion; and (iii) City and Permittee shall have executed and delivered this Polo Permit.

12. **Attorneys' Fees.** In the event a dispute arises concerning this Polo Permit, the party not prevailing in such dispute shall pay any and all costs and expenses incurred by the other party in enforcing or establishing its rights hereunder (whether or not such action is prosecuted to judgment), including, without limitation, court costs and reasonable attorneys' fees. For purposes of this Polo Permit, reasonable fees of attorneys of City's Office of the City Attorney shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the law for which the City Attorney's services were rendered who practice in the City of San Francisco in law firms with approximately the same number of attorneys as employed by the Office of the City Attorney.

13. **Counterparts.** This Polo Permit may be executed in counterparts, each of which shall constitute an original but all of which shall constitute one document.

14. **Entire Agreement.** This Polo Permit sets forth the entire understanding of the parties on the subject matter of this Polo Permit. There are no agreements between City and Permittee relating to the Polo Permit other than those set forth in writing and signed by the parties. Neither party has relied upon any understanding, representation or warranty not set forth herein, either oral or written, as an inducement to enter into this Permit.

15. **Permit in Full Force and Effect; Polo Permit Prevails.** The OSL Permit remains unmodified and in full force and effect as to the OSL Festival, separate and apart from this Polo Permit. Termination or expiration of this Polo Permit shall have no impact on the effectiveness of the OSL Permit. As to the Polo Field Concerts, to the extent the provisions of this Polo Permit conflict with the provisions of the OSL Permit, the provisions of this Polo Permit shall prevail.

[*Signatures on Following Page*]

City and Permittee have executed this Polo Permit as of the date first written above.

CITY: CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By: _____
PHILIP GINSBURG, General Manager
Recreation and Park Department

PERMITTEE: ANOTHER PLANET ENTERTAINMENT, LLC,
a Delaware Limited Liability Company

By: _____
Name: _____
Title: _____

APPROVED BY
RECREATION AND PARK COMMISSION
PURSUANT TO RESOLUTION NO. _____ DATED:_____

_____
Ashley Summers, Commission Liaison

APPROVED AS TO FORM:

DAVID CHIU,
City Attorney

By: _____
Manu Pradhan
Deputy City Attorney