

SPONSORSHIP AGREEMENT

This Sponsorship Agreement ("Agreement") is by and between Crosswind Events + Experiences, LLC ("Crosswind") with principal offices at 701 Brazos St., Ste. 1100, Austin, TX 78701, and The City of San Marcos _____ ("Sponsor") with principal offices at _____, dated _____ ("Effective Date"), sets forth the terms and conditions relating to Sponsor's co-sponsorship of the Airshow, Car show, and Concert event further identified in Attachment A ("Event").

WHEREAS, Crosswind plans to administer the Event; and

WHEREAS, Sponsor wishes to sponsor the Event;

WHEREAS, both Crosswind and Sponsor desire to launch The Event in 2016, both parties are committed to soliciting and securing additional sponsors to support The Event;

NOW THEREFORE, in consideration of the foregoing and the mutual benefits and promises set forth in this Agreement, Crosswind and Sponsor agree as follows:

1. **Term.** This Agreement shall commence on the Effective Date and shall continue through completion of the Event ("Term"), unless otherwise terminated as provided herein.
2. **Obligations of Crosswind.** Crosswind shall provide Sponsor with the rights and benefits set forth in this Agreement, including but not limited to the rights and benefits set forth on Attachment A to this Agreement. Subject to Sponsor's payment of the Sponsorship Fee, Crosswind will refund to Sponsor the following fees based on the number of tickets sold to the event: (i) \$0 if less than 10,800 tickets sold; (ii) \$41,175 if 15,025 to 20,025 tickets are sold; (iii) \$88,425 if 20,025 to 25,025 tickets are sold; (iv) \$135,675 if 25,025 to 30,940 tickets are sold; (v) \$192,000 if more than 30,940 tickets are sold to the Event.
 - 2.1. Prior to any refund to Sponsor, Crosswind will set aside from event proceeds an amount not to exceed \$375,000 to be used toward expenses of producing and executing year two of the Event;
 - 2.2. Crosswind will grant Sponsor the right of first refusal on future naming rights beyond year three of the Event in exchange for sponsorship levels to be determined in good faith at that time;
 - 2.3. Crosswind will regularly update and provide accounting detail to Sponsor's designee on a monthly basis;
 - 2.4. Crosswind will pursue additional sponsors and regularly update Sponsor's designee on status of sponsorship levels, and;
 - 2.5. Crosswind commits to use reasonable efforts where feasible and practical to utilize local vendors for concessions and other Event support. Local is defined as doing business in the city limits of San Marcos;
 - 2.6. Crosswind will work with Sponsor to designate a means through which flood victims receive a preferred discount to attend event.
3. **Obligations of Sponsor.** Sponsor shall provide Crosswind with the following:
 - 3.1. In consideration for the rights and benefits expressly described herein, Sponsor will pay Crosswind a sponsorship fee of \$292,000.00 ("Sponsorship Fee");

- 3.2. Sponsor will commit to sponsoring the Event in year two at the same level and under the same terms as year one, and to sponsoring year three at a non-refundable level of \$100,000, provided the Event continues for year two and three;
 - 3.3. Sponsor will designate a single point of contact who will serve as the Sponsor's liaison to the Event and who will have authority to represent the Sponsor in any decisions necessary to ensure event's success;
 - 3.4. The rights and benefits contained in this Agreement, including but not limited to the rights and benefits set forth on Attachment A to this Agreement; and
 - 3.5. Sponsor's logo for the uses authorized herein.
 - 3.6. Sponsor will work in good faith to negotiate and execute a favorable lease agreement for the airport site.
4. **Trademarks.** Sponsor grants Crosswind a limited, non-exclusive, non-transferable license to use Sponsor's trademark, trade name, logo, service marks or other indicia indicated on Attachment A ("Trademarks") during the Term of this Agreement solely for advertising, promotion or acknowledgment purposes in connection with the Event. Crosswind acknowledges that it does not have, and agrees that it will not claim, any right, title or interest, in or to the Trademarks of Sponsor, except as provided herein.
5. **Sponsor Materials.** Sponsor shall not use any programs, promotions, advertising, signage or other materials produced by Sponsor that reference the Event or use Crosswind's Trademarks without Crosswind's prior written approval.
6. **Attorney's Fees.** In any action to construe or enforce the terms and conditions of this Agreement, the prevailing party (as determined by a court of competent jurisdiction, if necessary) in such action, and in any appeals in connection therewith, shall be entitled to recover its reasonable attorneys' fees and costs from the other party.
7. **Indemnification.**
 - 7.1. Sponsor agrees to defend, indemnify and hold Crosswind and its employees, agents, officers and directors, and affiliated companies harmless from and against any third party losses, costs, damages, claims or expenses, including reasonable attorneys' fees, arising out of or resulting from (i) the consumption or use of Sponsor's products/services, and (ii) any materials created or supplied by Sponsor for use in connection with the Event including, without limitation, any Trademark of Sponsor.
 - 7.2. Crosswind agrees to defend indemnify and hold Sponsor and its employees, agents, officers and directors, and affiliated companies harmless from and against any third party losses, costs, damages, claims or expenses, including reasonable attorneys' fees, arising out of or resulting from any materials created or supplied by Crosswind to Sponsor in connection with the Event excluding any Trademark of Sponsor.
8. **Termination.** Either party may terminate this Agreement at any time for a material breach by the other with ten (10) days' written notice to the breaching party specifying the alleged material breach, provided that the breaching party shall have ten (10) days after receipt of such notice to cure the breach. Crosswind may terminate this Agreement upon thirty (30) days written notice.
9. **Representations and Warranties.** Each party represents and warrants that it has the full power and authority to enter into this Agreement and to grant the rights hereunder. Each Party shall at its sole cost and expense promptly comply with all laws, statutes, ordinances and governmental rules, regulations and requirements arising out of or relating to such party's performance of its obligations under this Agreement, including obtaining at such Party's sole cost and expense all governmental permits and authorizations of whatever nature required for such Party's

performance of its obligations under this Agreement.

10. Confidentiality.

- 10.1. Each party agrees to keep confidential all technical, product, business, financial, and other information regarding the business of the other party ("Confidential Information"), including but not limited to research and development, computer programs, source code, documentation, marketing plans, customer identity, and business methods.
- 10.2. The receiving party shall take all reasonable measures to preserve the confidentiality and avoid the disclosure of the disclosing party's Confidential Information. Such reasonable measures shall be no less than those procedures and controls the receiving party employs to protect its own confidential information of like importance. Except as provided otherwise herein, each party shall limit its disclosure of the other party's Confidential Information to those of its officers, employees, and consultants (i) to which such disclosure is necessary for the purposes of this Agreement; and (ii) who are bound pursuant to a written agreement by confidentiality obligations with the receiving party which are no less restrictive than those set forth in this Agreement.
- 10.3. The receiving party agrees that its covenant not to disclose or use the disclosing party's Confidential Information shall not apply to any information that: (i) is, or at any time becomes a part of the public domain through no act or omission of the receiving party; (ii) is independently discovered or developed by the receiving party without use of the Confidential Information; (iii) is rightfully obtained by the receiving party from a third party without any obligation of confidentiality; or (iv) is already known by the receiving party without any obligation of confidentiality prior to obtaining the Confidential Information from the disclosing party. The receiving party shall not be liable for disclosure of Confidential Information if made in response to a valid order of a court or authorized agency of government provided that notice is promptly given to the disclosing party so that a protective order may be sought and other efforts employed to minimize the required disclosure. The receiving party shall cooperate with the disclosing party in seeking the protective order and engaging in such other efforts.
- 10.4. The receiving party acknowledges that the disclosing party shall have the right to take all reasonable steps to protect its Confidential Information including, but not limited to, seeking injunctive relief and any other remedies as may be available at law or in equity in the event the receiving party does not fulfill its obligations under this Agreement.
- 10.5. Confidential Information shall at all times remain the property of the disclosing party. Nothing in this Agreement shall be construed as conveying to the receiving party: (i) any right, title, or interests in or to the disclosing party's Confidential Information or intellectual property rights associated therewith, or (ii) any license to use, sell, exploit, copy, or further develop any such Confidential Information.
- 10.6. Upon the disclosing party's request or upon termination of this Agreement (whichever occurs sooner), the receiving party shall promptly destroy or deliver to the disclosing party all documents, notes, or other physical embodiments of, reflecting, or derived from the Confidential Information (including any copies thereof) that are in the receiving party's possession or control.

11. DISCLAIMER OF LIABILITY. IN NO EVENT SHALL CROSSWIND BE LIABLE UNDER ANY THEORY OF LIABILITY, WHETHER IN AN EQUITABLE, LEGAL, OR COMMON

LAW ACTION ARISING HEREUNDER FOR CONTRACT, STRICT LIABILITY, INDEMNITY, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, FOR DAMAGES WHICH, EXCEED THE AMOUNT CROSSWIND HAS RECEIVED FROM SPONSOR UNDER THIS AGREEMENT IN THE SIX (6) MONTHS PRIOR TO THE CLAIM AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY. IN NO EVENT SHALL CROSSWIND BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY KIND AND HOWEVER CAUSED, INCLUDING BUT NOT LIMITED TO BUSINESS INTERRUPTION OR LOSS OF PROFITS, BUSINESS OPPORTUNITIES, OR GOOD WILL EVEN IF NOTIFIED OF THE POSSIBILITY OF SUCH DAMAGE AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY.

12. **Entire Agreement.** This Agreement constitutes the sole and exclusive statement of the terms and conditions hereof and supersedes any prior discussions, writings, and negotiations with respect thereto. The parties agree that this Agreement cannot be altered, amended or modified, except by a writing signed by an authorized representative of each party.
13. **Assignment.** Sponsor shall not assign or transfer this Agreement without the prior written consent of Crosswind. Any attempt to assign or transfer this Agreement by Sponsor shall be void.
14. **Survival.** The provisions set forth in Sections 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, and 21 shall survive termination or expiration of this Agreement.
15. **No Waiver.** No failure or delay in enforcing any right or exercising any remedy will be deemed a waiver of any right or remedy.
16. **Severability.** If any portion of this Agreement is determined to be or becomes unenforceable or illegal, such portion shall be reformed to the minimum extent necessary in order for this Agreement to remain in effect in accordance with its terms as modified by such reformation.
17. **Notice.** Any notice required under this Agreement shall be given in writing and shall be deemed effective upon delivery to the party addressed. All notices shall be sent to the applicable address specified on the first page hereof or to such other address as the parties may designate in writing.
18. **Governing Law.** This Agreement shall be governed and interpreted by the internal laws of the state of Texas, without regard to the conflicts of law provisions thereof. Any action or suit related to this Agreement shall be brought in Austin, Texas and each party hereby submits to the exclusive jurisdiction of such courts.
19. **Authorized Signatures.** The persons signing this Agreement shall have all legal authority and power in their respective capacities to bind the parties and this Agreement shall not be effective until fully executed (either on one document or in counterpart documents) and delivered to all parties. Any signed copy of this Agreement made by reliable means (e.g., photocopy or facsimile) shall be considered an original.
20. **Press Releases.** Any press release or other public announcements or statement to be made by either party in relation to the existence or terms of this Agreement shall be subject to the prior written approval of the other party, which approval shall not be unreasonably withheld or delayed.
21. **Force Majeure.** Neither Party shall be liable for damages for its failure to perform due to contingencies beyond its reasonable control, including, but not limited to, fire, storm, flood, earthquake, explosion, accidents, public disorders, sabotage, acts of terrorism, acts of war, labor shortages, riots or acts of God.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly

authorized officers as of the date first above written.

**CROSSWIND EVENTS +
EXPERIENCES, LLC**

Sponsor: _____

By: _____

By: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

ATTACHMENT A

A. Event for 2016

The yet-to-be-named event will have several elements including a fly-in, airshow, car show, potential x-sports exhibition and concert series.

The Experience

On the afternoon of Friday, October 14th, fly-in participants, airshow performers and car exhibitors will begin arriving. Sponsors, city officials, participants and VIP ticketholders will be invited to participate in an exclusive dinner and concert to be held at the Commemorative Air Force's hangar located on the airfield.

On Saturday, the 15th, gates will open at 10 am and spectators will be welcomed into a wonderland of 500-1000 show cars, a carnival, numerous food vendors, and attractions. Numerous military and civilian static aircraft displays will be available for viewing while music by local and area musicians play on various stages throughout the venue.

Two large 23' X 17' video screens will flank the main area of the festivities. Camera crews and on-screen personalities will rove throughout interviewing participants and spectators. Video presentations and advertisements will also stream to the screens which will be wired into the area-wide sound system.

From late morning until early afternoon, the focus will be the car show and small concerts. Car show participants opting in will compete for prizes in several classes from classic to exotic to best-in-show.

At 2 pm the airshow will start. For two hours it will be a high-energy mix of barnstorming aerobatics, nostalgic warbirds, daredevil skydivers and thundering jets. All of this will be captured and displayed on the giant video walls. Should we choose to employ the technology, cameras can be placed inside the cockpits taking the spectators along for the ride.

If sponsors can be secured, an X-sports show will begin at 4:30, with x-sports superstar, Tony Hawk, along with several of his friends will put on an hour-and-a-half gravity defying display on a giant half-pipe which will be placed at show center. As with all the other elements of the extravaganza, the performance will be displayed on the screens so it can be enjoyed from larger distances on the field.

From 6:15 to 7:30, our host, Cory Morrow, will take the stage delivering his brand of high-impact Texas country music and work the music-loving crowd into a frenzy.

At 8:00 a yet-to-be-determined high-profile national artist will perform on the main stage and take us into the evening of a day anyone who attends will never forget.

On Sunday morning, gates once again open at 10 and patrons will be invited to purchase tickets to the Sunday brunch. A celebration of gospel music and great food.

From 11:30 - 1:30 pm various participants of the car show will be invited to rally their cars at different venues throughout the field from running them down the runways to rallying them through a coned courses.

Once again at 2 pm, a spectacular airshow will take to the skies and will be the finale on the unforgettable event.

Gates close at 5 pm and preparations for next year's event begins...

