

## EXHIBIT RENTAL AGREEMENT

**DATE:** October 18, 2021

**1.0 PARTIES** (hereinafter collectively as “Parties”, individually as “Party”)

This Agreement is made and entered into by and between:

Dino Don, Inc. (hereinafter “DDI”)  
1640 North Ridley Creek Road  
Media, PA 19063  
Contact: Michael Lewis, Operations Director  
Phone: 503.502.6928; Email: mlewis@dinodoninc.com

and:

The Louisville/Jefferson County Metro Government, acting by and through its Louisville Zoological Gardens (hereinafter "Participant")  
1100 Trevilian Way  
Louisville, KY 40213  
Contact: Stephanie Moore, Assistant Director  
Phone: 502-238-5300; Email: Stephanie.Moore@louisvilleky.gov

WHEREAS DDI sells, rents and exhibits custom-made exhibitions that include Robotic Dinosaurs (hereinafter RD), Creature Replicas and Ancillary Exhibits.

WHEREAS Participant operates a business or facility (hereinafter “Venue”) that wishes to present and display the Exhibition; and

WHEREAS the Parties have entered into this Agreement to set forth the terms and conditions under which Participant has been granted the right to exhibit DDI's Exhibition supplied by DDI as specified and set out herein, and both Parties represent that the person signing this Agreement and any addenda hereto, has the authority to do so.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, the Parties, intending to be legally bound hereby, agree to the following terms and conditions

**2.0 BOOKINGS**

2.1 WRITTEN AGREEMENT. DDI makes all booking arrangements for the Exhibition; only these bookings are valid. The Participant has booked the Exhibition for the following period. This Agreement alone does not guarantee a booking. Only when the deposit is received by DDI, and the Agreement has been signed by both parties will the booking period be considered confirmed.

2.2 EXHIBITION PERIOD (hereinafter “Exhibition Period”).

Estimated Delivery & Installation Window: June 6-18, 2022

**Public Opening Date: June 18, 2022**

**Public Closing Date: September 18, 2022**

Take-down & Pick-up Window: September 19 - 24

**3.0 FEES AND PAYMENT DATES**

3.1 PAYMENT TERMS. The Participant agrees to pay the participation fee of \$225,000 for the Exhibition. A nonrefundable deposit of \$112,500 is required to confirm the booking and must be returned with the signed Agreement. The Participant's payment schedule is as follows. Payments must be received by the due dates or an additional charge of 1.5% per month may be applied to past due balances. DDI reserves the right to refuse to deliver the Exhibition or to have the Exhibition picked up early if all payments are not received by the due dates.

3.2 PARTICIPATION FEE DUE DATES:

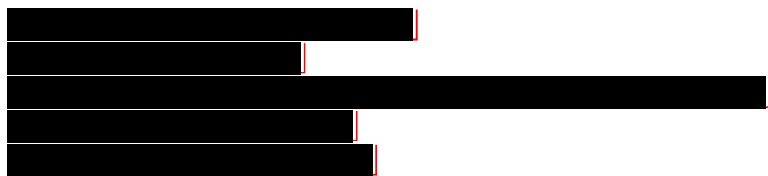
|                  |   |
|------------------|---|
| \$112,500        | Deposit Due: October 31, 2021(est. date) To DDI along with Signed Agreement                 |
| \$112,500        | Due: December 31, 2021 (est. date) along with Certificate(s) of Insurance (see Section 7.3) |
| <u>\$225,000</u> | Total Participation Fee   |

3.3 SHIPPING FEE / TECH EXPENSES DUE DATES: Inbound transportation shipping fees shall be made by Participant to DDI within 15 days of receipt of such invoice (see Section 11.1).

Expense fees for DDI technical travel, installation, deinstallation or any other agreed upon expense fees shall be made by Participant to DDI within 15 days of receipt of such invoice.

3.4 PAYMENT INSTRUCTIONS. All Payments to DDI should be sent to the following bank account via wire transfer. All payments should be made in U.S. Dollars. Note, DDI is not responsible for any fee or charges to the Participant associated with making payment via wire transfer.

Wire Instructions:



**4.0 PURPOSE**

4.1 ADMISSION FEES. No fees, other than general admission fees, may be charged for entrance to the Exhibition without prior written approval from DDI.

4.2 PUBLIC ACCESS. Public access to the Exhibition must not be denied to anyone on the basis of race, color, creed, national origin, disability, sex or age. DDI encourages the Participant to put forth special effort to make the Exhibition accessible to underserved audiences.

4.3 USE OF NAMES. The name of the Exhibition and DDI shall not be used in conjunction or connection with any general institution fund-raising or political event or for another purpose not specified in this Agreement without the prior written approval from DDI.

4.4 LOCATION. The Exhibition must be presented at the location indicated on this Agreement. Prior written approval from DDI must be secured by the Participant if the Exhibition is to be shown at an alternate location or at more than one location during the booking period indicated in the Agreement.

- 4.5 **COMPLETENESS / DUPLICATION.** The Exhibition must be presented separately and in its entirety. No component or portion of the Exhibition may be omitted from the Exhibition or displayed separately without prior written permission from DDI. No duplication of the Exhibition or any portion or component thereof is permitted.
- 4.6 **ADDITION / REMOVAL OF CONTENTS.** DDI will determine the contents of the Exhibition. Such contents shall substantially conform to the definition of the Exhibition. No supplemental material may be added to nor components removed from the Exhibition without prior written approval from DDI. The Participant will be notified should DDI determine that it is necessary to remove a certain object(s) from the Exhibition. The Participant shall, upon receipt of such notification, remove the object(s) identified in such notice. If appropriate, DDI shall make all possible attempts to find a suitable replacement for the removed object(s). The appropriateness and identity of said replacement shall be determined by DDI.
- 5.0 OWNERSHIP AND COPYRIGHT**
- 5.1 **OWNERSHIP.** The Exhibition is owned by DDI and DDI is permitting its use by the Participant subject to the terms of this Agreement. The Participant may not change the title or the logo of the Exhibition without the written permission of DDI. (see Section 18).
- 5.2 **LICENSE TO USE INTELLECTUAL PROPERTY.** In connection with logos, photos, graphics, illustrations and exhibition content to be provided by DDI and used by Participant in the marketing, advertising and promotion of the Exhibition, DDI hereby grants a license (the “License”) to Participant to use such items which represent the intellectual property of DDI, including all trademarks, copyright and moral rights (collectively the “DDI Intellectual Property”). Participant can alter or modify any of the provided DDI Intellectual Property with prior approval provided by DDI, not to be unreasonably withheld; and
- 5.3 **LICENSE TERMINATION.** The License will terminate at the end of the Exhibition Period and Participant will thereafter discontinue any further use of the DDI Intellectual Property; and
- 5.4 **RIGHT AND TITLE.** All right, title and interest in the DDI Intellectual Property will remain the property of DDI and will not become the property of Participant, and neither Participant nor its employees, contractors or agents will acquire any right, title or interest, including moral rights, in the DDI Intellectual Property or in any object or thing in which any of the DDI Intellectual Property appears or is incorporated or included.
- 5.5 **DDI FOOTAGE.** Participant acknowledges and agrees that all still and film footage by DDI of the Exhibition in the Venue shall be and remain the sole property of DDI and DDI shall have the exclusive right to use, publish, display, adapt, distribute and reproduce such footage for any purpose and in any media, now known or hereafter developed, provided that the usage is deemed to be, at the sole discretion of the Venue, not harmful in any way to Participant. DDI agrees to use only images of the dinosaurs and other attraction elements provided by DDI and may not use any images representative of the Participant including but not limited to animals, buildings, attractions, and signs. DDI may not to use the name, marks, trademarks or logos of Participant except for marketing purposes reflecting the Participant as a previous host site of a DDI exhibition. If the images taken at the Venue include visitors to the Venue, DDI will secure photo releases from the participants in the photos.
- 5.6 **DDI ACCESS FOR FOOTAGE.** Participant will grant access to the Venue for the purposes of reviewing, filming, or photographing the Exhibition during normal business hours of operation or

at a mutually agreed upon time, free of charge, should DDI so desire. Such access not to be unreasonably withheld by the Participant.

## **6.0 SPONSORSHIPS**

6.1 NATIONAL / INTERNATIONAL SPONSORS. DDI shall have the right to enter into an agreement with a national or international sponsor, giving this sponsor complete national or international and local sponsorship rights in connection with the Exhibition. The Participant agrees to accept this national or international sponsor and grant to the sponsor rights that shall include (but are not limited to) inclusion in a pre-exhibit press conference; the right to hold an exhibit reception party at the sponsor's expense; the sponsor's name on handbills, all on-site and off-site advertising as it relates to the Exhibition, and all materials created in connection with any such sponsorships, including, without limitation to, all advertising and marketing materials, and press releases. The national or international sponsor's name shall be prominently displayed in the Exhibition. The establishment of a national or international sponsor for the Exhibition does not obviate the right of the Participant to pursue and secure local sponsorship.

6.2 LOCAL SPONSORS. All local sponsors of the Exhibition must be submitted to DDI in writing for approval. Such approval shall not be unreasonably withheld.

## **7.0 INSURANCE REQUIREMENTS**

7.1 LIABILITY & PROPERTY INSURANCE Pursuant to Ordinance No. 11, Series 2003, the Louisville/Jefferson County Metro Government is self-insured for all properly asserted General Liability claims brought against it to which the Louisville/Jefferson County Metro Government does not otherwise have a legal defense. In addition, the Louisville/Jefferson County Metro Government agrees to keep in full force and effect Excess Self Insurance coverage for all properly asserted claims brought against it to which the Louisville/Jefferson County Metro Government does not otherwise have a legal defense covering Bodily Injury; Property Damage and Personal injury Liability under the Louisville Area Governmental Self Insurance Trust; as long as such coverage is available. The Limit of Liability provided by such Excess coverage shall be at least \$5,000,000 per Occurrence under a Combined Single Limit format. The Louisville/Jefferson County Metro Government agrees to provide (name of contractor) with a Certificate of Self Insurance from the Louisville Area Governmental Self Insurance Trust, if requested. The Trust Bylaws do not allow including additional insureds on Members coverages, however, Broad Form Contractual Liability coverages provided.

7.2 WORKERS' COMPENSATION INSURANCE: The Louisville/Jefferson County Metro Government maintains and appropriates funds for the Self-Insurance Program for Workers' Compensation coverage to the Louisville/Jefferson County Metro Government employees, the Louisville/Jefferson County Metro Government is in compliance with KRS.342.340 of the Workers' Compensation Act and has received the Certificate of Self Insurance as proof of ability to pay compensation claims.

7.3 CERTIFICATE(S) OF INSURANCE. At least forty-five (45) days prior to the day the Exhibition is scheduled to open, the Participant shall furnish DDI with Certificate(s) of Insurance giving evidence that the insurance coverage is in full force and effect.

7.4 NOTICE OF INSURANCE COVERAGE CHANGES. The Participant agrees to provide DDI with thirty (30) days advance written notice of renewal, cancellation or change in insurance coverage. All such certificates and policies of insurance must provide the notice requirements set forth herein.

7.5 DAMAGE OR THEFT. The Participant agrees to notify DDI immediately of any damage or theft that occurs while the Exhibition is in its possession and assumes responsibility for any DDI liability which may arise because of the Participant's failure to do so.

## **8.0 SECURITY REQUIREMENTS**

8.1 GENERAL CONDITIONS. The Participant must provide security for the Exhibition from the moment it is received, during all phases of handling, installation, display, and until the moment it is shipped from the Participant site. The Participant agrees to take all necessary measures to provide a safe and secure environment for the Exhibition and to provide all fire precautions as required by law or local ordinance.

8.2 APPROPRIATE USE. The Participant is responsible for any damage to the Exhibition due to misuse of the Exhibition components.

8.3 PROTECTION. The Exhibition area must be locked and secure during closed hours. Alarm and/or guard surveillance during closed hours is required.

## **9.0 SITE REQUIREMENTS**

9.1 VENUE. Participant shall, at no charge to DDI, furnish an outdoor venue for the installation and operation of RD during the Exhibition Period. The Exhibition must be installed in accordance with DDI's specifications. The Exhibitor will be responsible for and bear all expenses of the installation of the Exhibition, including, but not limited to, the following: site prep, construction, electrical requirements, horticulture needs, all necessary set dressings to create an appropriate environment, and lighting.

9.2 EXHIBITION ACCESS. Participant will allow reasonable access to DDI to complete proper installation, deinstallation, maintenance, or repair of the Exhibition. Participant warrants that the installation / deinstallation location will be cleared, clean, and ready for installation or deinstallation prior to the scheduled installation or deinstallation date. Participant further warrants that the Contractor shall have reasonable access to loading docks / areas and access points to and from the installation / deinstallation location for the entire installation / deinstallation period. If DDI is not granted access to loading docks / areas and access points to and from the installation / deinstallation location when needed as determined by DDI, Participant acknowledges that this may change the target completion date, target deinstallation date, Participation Fee, Shipping Fee or all of the above. Participant shall compensate DDI on a time and materials basis (at the rate of \$60/hour for DDI staff time) for any such increased costs and shall extend completion or deinstallation date by the amount of time DDI's resources are actually delayed as a consequence of the lack of access, as reasonably determined by DDI.

9.3 EQUIPMENT. Included below is a list of typical equipment needed for installation and deinstallation. Participant will provide, at their expense, any needed certified operators for heavy equipment (forklift, crane, etc.). A finalized equipment list will be provided to the Participant after any site visits and based on any unique site requirements, logistics, and/or local conditions or regulations

1 – 10,000 lb. Telehandler (note, occasionally some site conditions require the use of a crane)

1 – 5000 lb. Straight Mast Rough Terrain Forklift with Six-Foot-Long Forks

- 1 – Set of 6’ or 8’ Fork Extensions if long forks are not available on the Straight Mast Forklift
  - 2 – Single Point Forklift Jib Boom Attachments
  - 1 – 60’ Aerial Boom Lift
  - 1 – Golf Cart or similar Small Utility Vehicle
  - 2 to 4 – 10’ Folding Stepladders
  - 2 – 6’ to 8’ Folding tables
- Affordances for weather as needed, which may include but not be limited to tents, tarping, plastic sheeting, sandbags, heaters, etc.

9.4 **STORAGE.** Participant will provide 200 square feet of secure on-site storage space protected from inclement weather and accessible by DDI during the Exhibition Period for tools, parts, accessories and supplies.

## 10.0 CANCELLATIONS

10.1 **CANCELLATIONS BY PARTICIPANT.** In the event that the Participant must cancel the Exhibition for any reason, the Participant agrees to pay the unpaid balance of the participation fee. If the Participant finds an alternative institution, agreeable to DDI, to show the Exhibition during the same time period, or at another time reasonably acceptable to DDI, the Participant shall then only be liable to DDI for such part of the Exhibition fee not paid by such alternative institution and any additional transportation costs.

10.2 **CANCELLATIONS BY DDI.** In the event that it is determined that it is no longer safe or feasible to travel the Exhibition, DDI reserves the right to cancel the tour. DDI shall not be held responsible for any costs incurred by the Participant in preparation for the Exhibition in the event the tour must be canceled. If DDI must cancel the tour, as much advanced notice as possible will be given, and any deposits/payments received will be returned to the Participant. No interest will be paid by DDI on refunded deposits/payments.

10.3 **UNFORSEEABLE EVENTS.** In no event will DDI be held responsible, nor will the Participant be relieved of its responsibility to pay the participation fee, if inclement weather, earthquakes, accident, riot, strikes, or other similar acts over which DDI has no control, prevents the delivery of the Exhibition or portions of the Exhibition as scheduled.

## 11.0 SHIPPING FEE, ARRANGEMENTS AND DELIVERY

11.1 **SHIPPING FEE.** The Participant will pay actual inbound shipping, shipping-related charges and transit insurance costs. Inbound transportation costs payment shall be made by Participant to DDI within 15 days of receipt of such invoice (see Section 3.3).

11.2 **SHIPPING ARRANGEMENTS.** All arrangements for transporting the Exhibition to and from the Participant will be made by DDI. DDI will work in cooperation with all participants on the tour to determine a shipping schedule that provides adequate time for unpacking, installation and packing of the Exhibition. The Participant agrees to receive the Exhibition when delivered and to have it repacked and ready to ship by the date specified by DDI.

11.3 **HOLDING OR STORAGE FEES.** If the Participant cannot accept or release the Exhibition on the date(s) determined by DDI, any resulting holding, storage, or other related fees will be the responsibility of the Participant.

11.4 **ADDITIONAL SHIPPING FEES.** Any fees resulting from special handling needs, such as downsizing the load into smaller trucks, having to use lift gate trucks, or other special requests,

will be the responsibility of the Participant. Any fees resulting from the Participant not being able to accept, unload, or load the exhibit on the agreed upon time and date will be the responsibility of the Participant. The Participant is responsible for unloading and loading the trailers and for providing adequate labor and equipment to accomplish this task in a timely manner. DDI will direct and supervise the unloading of the Exhibition and assist in the placement of the Exhibition on site, as well as assist in the take-down and supervise the repacking of the Exhibition.

- 11.5 DELAYS IN SHIPPING. Every effort is made to deliver the Exhibition on the specified date. DDI shall not, however, be responsible for any damages or liability the Participant may incur or suffer as a result of any delay in delivery or failure to deliver the Exhibition due to circumstances beyond DDI's control.
- 11.6 NOTIFICATION OF DAMAGE. Upon delivery of the Exhibition, the Participant must contact DDI immediately if any damage is noted. Under no circumstances may any alteration or repair to Exhibition materials or objects be undertaken without prior written permission from DDI.
- 12.0 SET-UP AND TAKE-DOWN**
- 12.1 EXHIBITION SUPERVISOR. A qualified DDI Exhibit Supervisor will direct the off/on loading of trucks, and the set-up and take-down of the Exhibition. DDI shall also provide a team of four (4) additional technicians to assist in the set-up and take-down of the Exhibition. No Exhibition off-loading, unpacking, installation, dismantling, packing, or loading may occur without the presence of the DDI Exhibit Supervisor, unless the Participant has received prior written permission from DDI. DDI shall provide full Workers' Compensation and Travel Insurance for all of its workers during their time at Participant's Venue.
- 12.2 INSTALLATION / DEINSTALLATION EXPENSES. Participant will be responsible for all travel related expenses for DDI Exhibit Supervisor and technicians, including but not limited to: supervisor and technical salary, transit, ground transportation, baggage fees, accommodations on a single room per person basis, and per diem of \$75/day.
- 12.2 EXHIBITION CREW. Participant will provide a Participant Supervisor and a minimum of four (4) qualified set-up and take-down staff for the duration of the installation / deinstallation. Participant will provide, at their expense, any needed certified operators for heavy equipment (forklift, crane, etc.) in addition to the set-up and take-down staff. The Participant Supervisor shall also be available to assist with the installation of the Exhibition and to monitor ongoing site conditions and functions. If minimum staff are not provided, or do not meet DDI's qualifications, DDI reserves the right to hire local temporary workers at the Participant's expense. Only staff knowledgeable in the handling of exhibitions should be used in the set-up and take-down of the Exhibition. The Participant shall be responsible for following all instructions for set-up and take-down of the Exhibition as instructed by DDI. DDI will provide a more detailed schedule of staffing needs closer to the beginning of installation and deinstallation.
- 12.3 EXHIBITION EQUIPMENT. A telehandler, boom lift, forklifts, pallet jacks, dock plates, and dollies may be required to load and unload the Exhibition. A person lift may be required for installation and take-down of the Exhibition. The Participant will be notified in advance of receipt of the Exhibition should any additional special equipment be required for the safe unloading and/or installation of the Exhibition. If the specified equipment is not provided, DDI reserves the right to procure the equipment from local sources at the Participant's expense.

12.4 EARLY OPENING DATE. If installation of the Exhibition is completed to DDI's satisfaction prior to the scheduled opening date, DDI may authorize the Participant to open the Exhibition at that time.

12.5 REMOVAL / ALTERATION OF EXHIBITION. Once installed, neither the Exhibition nor any of its components can be moved, altered or removed without written permission from DDI.

12.6 STORAGE AND PROTECTION OF CARTS / CRATES / ROAD BOXES. Upon receipt of the Exhibition, the Participant agrees to store any carts/crates/road boxes in a safe and secure environment, protected from exposure to the weather or other circumstances that could result in damage to the crates and/or packing materials. The Participant will be held responsible and accountable for any damage to and/or loss of the Exhibition carts/crates. If damage does occur, the Participant must notify DDI immediately.

12.7 PROPER PACKING. The Participant is responsible for packing the Exhibition correctly, per the DDI Exhibit Supervisor. If, due to improper packing procedures, any part of the Exhibition is damaged while in transit to the next display site, the Participant is responsible for any resulting repair costs, not to exceed full replacement value of the Exhibition.

12.8 ARTIFACTS. If artifacts/objects are present within the Exhibition, any handling of the artifacts/objects at any time must be performed only by curators or members of the professional staff trained in handling museum artifacts/objects.

### **13.0 PREVIEW EVENTS**

Press and VIP events must occur after the Exhibition set-up is completed. DDI will not be responsible for presentation of the completed Exhibition until the opening date stated on the first page of this Agreement.

### **14.0 MAINTENANCE**

14.1 DAILY MAINTENANCE REQUIREMENTS. Due to the interactive nature of the Exhibition, daily maintenance and care must be provided. Some components may require daily start-up and shut-down procedures and daily cleaning and/or adjusting to remain in proper working order.

14.2 DAILY INSPECTIONS. The Participant shall each day inspect the Exhibition while it is on display and report any problems to DDI. If a change in the condition of any object occurs while in the possession of the Participant, DDI must be notified immediately.

14.3 TECHNICIAN REQUIREMENTS. The Participant agrees to make available at least one (1) staff person with expertise in maintaining exhibits and electronic equipment of the type included in the Exhibition. This staff person must be available for training by the DDI Supervisor during the Exhibition installation period, and will be responsible for repairs and daily maintenance including daily start-up and shut-down of the Exhibition. In the event that the Participant's technician is not knowledgeable in making repairs, thereby requiring DDI to hire outside contractors for said maintenance or do the maintenance itself, DDI may bill the Participant, including shipping costs.

14.4 MAINTENANCE, SERVICE AND REPAIRS. DDI will provide service and maintenance for major breakdowns. Such maintenance agreement assumes normal, reasonable operation and care by the Participant's staff and visitors. The Participant will maintain the display at its own expense, including, but not limited to, lubricating machine parts, janitorial services and minor repairs as necessary to maintain the Exhibition in good working order. Any maintenance or repair caused by other than normal operation, or due to the Participant's negligence, will be the responsibility of



the Participant. All repairs and replacements will be done in coordination with DDI and repaired or replaced to their original state and value. All repairs must be preauthorized by DDI in writing. Unauthorized repairs or modifications will not be permitted.

For any malfunctions repairable by Participant staff, DDI will make every reasonable effort to work with Participant staff by phone and email to correct the specific malfunction, and provide a supply of basic repair parts and provide support for Participant technicians to perform said repairs. In the event of malfunctions requiring DDI repair, all such repairs and replacements shall be made as quickly as possible. The Participant agrees to display malfunctioning portions of the Exhibition in static form until such time as repairs are made unless otherwise directed by DDI.

14.5 CLEANLINESS AND GOOD APPEARANCE. The Participant shall maintain the cleanliness and good appearance of the Exhibition at all times. The Participant is responsible for thoroughly cleaning the Exhibition prior to opening to the public and at the close of the booking prior to packing.

14.6 MAINTENANCE REPORTS. The Participant will maintain a maintenance log during the Exhibition Period and will provide those log details to DDI every other month.

#### **15.0 CONDITION REPORT**

The Exhibition will be examined by the Participant during the set-up and take-down period and a Condition Report will be completed and sent to DDI within forty-eight (48) hours after completion of set-up and take-down.

#### **16.0 EXHIBITION MATERIALS**

DDI will provide the Participant with one (1) set of appropriate materials, such as instruction or publicity/advertising in advance of the Exhibition opening date. These materials will be in provided in an electronic format only.

#### **17.0 ADVERTISING / PUBLICITY**

17.1 ADVERTISING / PUBLICITY. DDI shall provide the Exhibitor with a suggested press materials and digital images for use in promotional articles, pamphlets, entrance tickets, advertising, the Participant's website, and other similar promotional and educational material relating to the Exhibition, as well as for broadcast/narrowcast programs reviewing or discussing the Exhibition. Except with the written consent of DDI, only reproductions and photographs of objects provided and/or duplicated from those provided by DDI may be used in connection with the Participant's showing of the Exhibition. The Participant agrees that all press releases, invitations, announcements, electronic media, and other promotional matter produced by the Participant concerning the Exhibition will carry the full title of the Exhibition as set forth in Section 1 and DDI's credit line referred to in Section 18.1. Advertising will be the responsibility of the Participant.

17.2 ALLOWABLE PHOTOGRAPHY / FILM. Photography, filming, and videography of the Exhibition, including television coverage, may be permitted for documentary, educational, or publicity purposes related to the Exhibition, but only if supervised by a member of the Participant's professional staff. Members of the public are allowed to photograph and video the Exhibition for their own private use.

17.3 PHOTOGRAPHY/FILM NOT ALLOWED. Photography, filming, and videography may not be used for resale or third-party promotion.

- 17.4 THIRD PARTY COPYRIGHTS. Copyrights of third parties may apply to photographic materials provided for promotional and educational reproduction, including Exhibition-related catalogues and brochures. Compliance with copyright laws and observance of the reproduction rights of any third party occurring during, and in connection with, the showing of the Exhibition by the Participant shall be the responsibility of the Participant, which agrees, to the extent permitted by Kentucky law, to indemnify, hold harmless, and defend DDI from and against all liabilities, losses, or expenses arising out of any claim by a third party of a violation of copyright laws or reproduction rights occurring during, and in connection with, the showing of the Exhibition by the Participant and any unauthorized use by the Participant of images from the Exhibition.

To the extent not retained by third parties, the copyright for all images in the Exhibition is retained by DDI.

- 17.5 ADVERTISING/PUBLICITY APPROVALS. The Exhibitor agrees to send DDI drafts or copies of all proposed publicity materials for approval, such approval not to be unreasonably withheld. If Participant uses unaltered advertising or press materials provided by DDI, the Participant may use these materials without prior approval from DDI.

- 17.2 COPIES OF ADVERTISING / PRESS MATERIALS. The Participant must provide DDI with copies of all press releases, all available press clippings and sample advertising materials no later than thirty (30) days after the close of the Exhibition.

## 18.0 CREDITS

- 18.1 PUBLICITY CREDIT. The Participant agrees to ensure that DDI is properly credited in all publicity, press releases and communications relating to the Exhibition with the following credit line:

**Created By Dino Don Inc.**

- 18.2 ADVERTISING CREDIT. All advertising must include the DDI logo. Participant may not create a new Exhibition logo or title, nor alter the Exhibition title or logo in any way except overall size. The full exhibition title, organizing and national or international sponsor credit lines, and sponsor logos must be prominently displayed on the entry wall of the Exhibition and on all promotional and educational materials, advertising, signage, and websites, as well as any other Exhibition-related print and electronic collateral materials not specifically mentioned herein. The full Exhibition title and any organizing and national or international sponsor credit lines will always precede and be the same in size or larger than any local sponsor credit line and/or logo. Any questions regarding credit lines will be resolved by DDI.

## 19.0 ATTENDANCE

Attendance figures will be provided by the Participant to DDI no later than thirty (30) days after the closing of the Exhibition.

## 20.0 CROSS INDEMNITY

DDI agrees to indemnify and to hold harmless the Participant from and against all damages, claims, suits, or other legal proceedings arising from or attributed to negligent or otherwise improper design or construction by DDI. To the extent permitted by Kentucky law, the Participant agrees to indemnify and to hold harmless DDI its respective affiliates, officers, agents, servants and employees from and against all damages, claims, suits or other legal proceedings together with attorneys' fees and litigation expenses, which arise from or are caused by claims associated with: (1) the wrongful or negligent acts or omissions of Participant, its directors,

officers, employees or agents; (2) any breach of this Agreement by Participant; (3) Participant's failure to comply with federal or state law or regulations; (4) any claim for compensation, salary or benefits asserted by any agent, servant, employee or contractor of Participant; (5) any claim for personal injury brought by any guest, visitor or viewer of the Exhibition; or (6) any claim for patent, trademark or copyright infringement relating to Participant's intellectual property.

**21.0 SEVERABILITY**

If any provision of this Agreement, or portion thereof, or the application thereof to any circumstance shall be held to be invalid or unenforceable, the remainder of this Agreement and the application thereof to other circumstances shall nevertheless be valid. In lieu of such invalid or unenforceable provision, there shall be added automatically a provision as similar in terms to such invalid or unenforceable provision as may be possible and be legal, valid and enforceable.

**22.0 REMEDIES**

Unless otherwise specified herein, all rights and remedies of the parties under this Agreement are cumulative of each other and of every other right or remedy which the parties may otherwise have at law or in equity, and the exercise by a party of any one or more rights or remedies shall not prejudice or impair the concurrent or subsequent exercise of any other rights or remedies. If any action is brought to enforce or interpret the provisions of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to other relief to which he may be entitled.

**23.0 AUTHORITY**

DDI and the Participant each acknowledge that the officer executing this Agreement on its behalf has authority to enter into this Agreement on its behalf having full knowledge of this Agreement and its terms.

**24.0 NOTICE**

Any notice, demand, request, response or other communication contemplated herein or required or permitted to be given hereunder shall be in writing and (i) if by air courier (e.g., Federal Express), shall be deemed to have been given one (1) day after deposit with a recognized carrier of overnight parcels, with all charges prepaid; (ii) if by telecopy (facsimile), shall be deemed to have been given on the day of receipt; and (iii) if mailed, shall be deemed to be given five (5) days after the date when deposited in the United States Mail, certified mail, postage prepaid, to the address of the party to receive such notice, at such party's address as set forth below:

If to DDI to:                      Dino Don, Inc.  
1640 North Ridley Creek Road  
Media, PA 19063  
Contact: Don Lessem, President & CEO

If to Participant to:            Louisville Zoological Gardens  
1100 Trevilian Way  
Louisville, KY 40213  
Contact: Stephanie Moore, Assistant Director  
Phone: 502-238-5300; Email:  
Stephanie.Moore@louisvilleky.gov

Or such other address as the party to receive such communication may have designated in writing delivered to the other party in accordance with the foregoing provisions. All notices given other than as specified above shall be deemed effective upon receipt.

## **25.0 WAIVER**

No delay on the part of either party in exercising any power or right hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any power or right preclude any other or further exercise thereof or the exercise of any other power or right. No waiver by either party of any right hereunder or of any default shall be binding upon such party unless such waiver is in writing and signed by a duly authorized officer of such party, and no waiver of any default or failure by such party to exercise any right hereunder shall operate as a waiver of any other or further exercise of such right or of any further default.

## **26.0 ENTIRE AGREEMENT**

This Agreement, together with all exhibits and schedules attached hereto, and documents specifically referred to herein, contains the entire understanding between the parties hereto concerning the specific subject matter herein contained. There are no representations, agreements, arrangements or understandings, oral or written, between or among the parties hereto relating to the subject matter of this Agreement which are not fully expressed herein or in the exhibits and schedules attached hereto or documents referred to herein.

26.1 AGREEMENT TERM. The term of this Agreement shall begin upon execution of this Agreement and shall terminate on the final pickup date of the exhibit units unless terminated earlier as provided herein.

## **27.0 AMENDMENT**

This Agreement may not be modified or amended except by written agreement executed by all of the parties to this Agreement at the time of such amendment.

## **28.0 DEFAULT AND TERMINATION**

28.1 EVENT OF DEFAULT. The occurrence of any one or more of the following events with respect to a Party shall constitute an Event of Default under this Agreement:

28.1.a Failure to perform any of its obligations contained in any section of this Agreement and the continuance of such failure un-remedied for a period of ten (10) days following receipt of written notice thereof to the defaulting Party (giving particulars of the failure in reasonable detail);

28.1.b If any proceedings are commenced or taken for the dissolution, liquidation or winding-up of a Party, or for the suspension of operations of a Party whether by extra-judicial means or under any statute of any applicable jurisdiction or otherwise.

28.2 DEFAULT NOTIFICATION. A defaulting Party shall promptly notify the non-defaulting Party, in writing, if a default or Event of Default with respect to such defaulting Party has occurred hereunder.

28.3 NON-DEFAULTING PARTY RIGHTS. Upon the occurrence of an Event of Default by a Party under this Agreement, the non-defaulting Party may do any or all of the following as such non-defaulting Party, in its sole discretion, shall determine:

28.3.a The non-defaulting Party may terminate this Agreement in accordance with its terms hereunder; and/or;

28.3.b The non-defaulting Party may exercise any of its other rights and remedies provided for hereunder or otherwise available to it at law or in equity.

**29.0 ARBITRATION**

This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania. All claims, disputes, and other matters in question between DDI and the Participant arising out of or relating to this Agreement shall be submitted to arbitration in accordance with the arbitration rules of the American Arbitration Association unless the parties mutually agree otherwise.

**30.0 BINDING EFFECT**

This Agreement may not be assigned by either DDI or the Participant without the express written approval of the other party, which approval may be withheld at such party's sole discretion. Subject to this prohibition against assignment, this Agreement and the terms and conditions hereof shall be binding upon and inure to the benefit of the parties hereto, their respective legal representatives, successors and assigns.

**31.0 PROPRIETARY INFORMATION**

Both Parties warrant to hold in strict confidence any proprietary information disclosed one to the other. Both Parties agree that they will not remove any document, material, or equipment, and they will not photograph or otherwise record any data without specific written permission of a duly authorized representative of the other. All of the provisions in this section are subject to and subordinate to any legal obligations that apply to the Participant including, without limitation, any obligations under public records laws or statutes.

**32.0 RELIANCE**

Participant agrees that it has not relied on any representations of DDI, its agents or employees regarding the potential success of the Exhibit, other than those that are made by the express terms of this Agreement.

**33.0 CAPTIONS AND SECTION HEADINGS**

Captions and section headings used herein are for convenience only and shall not be used in construing this Agreement.

**34.0 LANGUAGE**

The language used in this Agreement, English, shall be deemed to be the language chosen by both parties hereto to express their mutual intent, and no rule of strict construction against either party shall apply to any term or condition of this Agreement.

**35.0 FURTHER ASSURANCES**

Each of the parties hereto agrees to perform any further acts and to execute and deliver any further documents that may be reasonably necessary to carry out the purpose or intent of the provisions of this Agreement.

**36.0 INDEPENDENT CONTRACTOR**

The parties hereto, for the purposes of this Agreement and the work performed hereunder, are acting as independent contractors and shall have no right, power or authority whatsoever to create any obligation, express or implied, on behalf of the other party and shall have no authority to represent the other party as an agent except as is specifically agreed herein.

**37.0 RELATIONSHIP**

Nothing in this Agreement will be construed as creating the relation of employer and employee, agents, partners, or joint ventures between DDI and Participant; or between DDI and any of Participant's employees or representatives. It is the express intent of the Parties that neither Party is an employee, agent, partner nor joint venture of the other for any purpose but are independent contractors for all purposes and in all situations.

### **38.0 EXPENSES**

Except as otherwise provided herein, each Party will bear all expenses incurred by it in connection with this Agreement and the transactions contemplated hereby, including fees and expenses of legal consultants, printers, financial advisors, accountants and obtaining required consents and approvals.

### **39.0 APPROVALS AND SIMILAR ACTIONS**

Except as otherwise specifically provided herein, where agreement, approval, acceptance consent or similar action is required by any provision of this Agreement, such action shall not be unreasonably delayed or withheld.

### **40.0 CONFIDENTIALITY**

The prices and terms of this Agreement shall be held confidential by both Parties, as shall each Party's respective performance hereunder and thereunder, to the extent permitted by the Kentucky Open Records Act, KRS 61.870 *et. seq.*.

### **41.0 FORCE MAJEURE**

Neither party shall be liable for any delays or failures in performance, in whole or in part (excluding payment of monies due), if such delay or nonperformance is due to any cause beyond its reasonable control, including, but not limited to, delays caused by the other party's failure to perform or delay in performing its obligations under this Agreement, third party delay or non-performance, Acts of God, war, terrorism, insurrection, riot, civil disturbance, rebellion, government regulations, embargoes, explosions, fires, floods, tempest, strikes, lock-outs, labor disputes, failures in public supply of electrical power, heating, lighting, air conditioning or public telecommunications equipment.

### **42.0 COUNTERPARTS**

This Agreement may be executed in one or more, each of which shall constitute an original, but all of which taken together shall constitute one single Agreement between the Parties hereto.

### **43.0 CONTACTS**

43.1 DDI POINT PERSON. For general information on the Exhibition and questions regarding the terms and conditions within this Agreement, shipping, security, insurance, marketing, public relations, advertising, sponsors, installation, maintenance, or repairs, please contact the Operations Director, Michael Lewis at 503.502.6928, [mlewis@dinodoninc.com](mailto:mlewis@dinodoninc.com).

43.2 PARTICIPANT POINT PERSON. Participant shall provide a point person as the contact for DDI. Contact: Stephanie Moore, Assistant Director, 502-238-5300, [Stephanie.Moore@louisvilleky.gov](mailto:Stephanie.Moore@louisvilleky.gov).

### **44.0 SIGNATURES AND CONFIDENTIALITY**

The purpose of the preceding Exhibition Agreement is to set forth the terms and conditions under which DDI agrees to loan the Exhibition to the Participant and to provide a mutual understanding of the cooperative effort required for the successful presentation of the Exhibition. Each of the

parties agrees to keep the terms and conditions contained in this Agreement confidential, and agrees not to disclose said terms and conditions to any third parties other than its representatives unless required to do so by the Kentucky Open Records Act, KRS 61.870, *et. seq.*

45. Records Audit. DDI shall maintain during the course of the work, and retain not less than five years from the date of final payment on the contract, complete and accurate records of all of DDI's costs which are chargeable to Customer under this Agreement; and Customer shall have the right, at any reasonable time, to inspect and audit those records by authorized representatives of its own or of any public accounting firm selected by it. The records to be thus maintained and retained by DDI shall include (without limitation): (a) payroll records accounting for total time distribution of DDI's employees working full or part time on the work (to permit tracing to payrolls and related tax returns), as well as canceled payroll checks, or signed receipts for payroll payments in cash; (b) invoices for purchases receiving and issuing documents, and all the other unit inventory records for DDI's stores stock or capital items; and (c) paid invoices and canceled checks for materials purchased and for subcontractors' and any other third parties' charges.
46. Pursuant to KRS 45A.455:
  - (1) It shall be a breach of ethical standards for any employee with procurement authority to participate directly in any proceeding or application; request for ruling or other determination; claim or controversy; or other particular matter pertaining to any contract, or subcontract, and any solicitation or proposal therefor, in which to his knowledge:
    - (a) He, or any member of his immediate family has a financial interest therein; or
    - (b) A business or organization in which he or any member of his immediate family has a financial interest as an officer, director, trustee, partner, or employee, is a party; or
    - (c) Any other person, business, or organization with whom he or any member of his immediate family is negotiating or has an arrangement concerning prospective employment is a party. Direct or indirect participation shall include but not be limited to involvement through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or purchase standard, rendering of advice, investigation, auditing, or in any other advisory capacity.
  - (2) It shall be a breach of ethical standards for any person to offer, give, or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment, in connection with any decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or purchase standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling or other determination, claim or controversy, or other particular matter, pertaining to any contract or subcontract and any solicitation or proposal therefor.
  - (3) It is a breach of ethical standards for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.
  - (4) The prohibition against conflicts of interest and gratuities and kickbacks shall be conspicuously set forth in every local public agency written contract and solicitation therefor.
  - (5) It shall be a breach of ethical standards for any public employee or former employee knowingly to use confidential information for his actual or anticipated personal gain, or the actual or anticipated personal gain of any other person.
47. DDI shall reveal any final determination of a violation by DDI or its subcontractor within the previous five (5) year period pursuant to KRS Chapters 136, 139, 141, 337, 338, 341 and 342 that apply to DDI or its subcontractor. DDI shall be in continuous compliance with the provisions of

KRS Chapters 136, 139, 141, 337, 338, 341 and 342 that apply to DDI or its subcontractor for the duration of this Agreement.

For Dino Don, Inc. (DDI):

  
\_\_\_\_\_  
Don Lessem, President & CEO

Nov 29, 2021  
\_\_\_\_\_  
Date

For the Louisville/Jefferson County Metro Government:

  
\_\_\_\_\_  
Stephanie A. Moore  
Assistant Director, Louisville Zoo

11/29/2021  
\_\_\_\_\_  
Date



## SCHEDULE 1 – EXHIBITION MATERIALS

### Nineteen (19) ROBOTIC DINOSAURS

- One 20ft. Jewel Beetle
- One 20 ft. Flower Beetle
- Fallen tree log w/ 5 Monarch Butterflies (2-3 ft. wingspan)
- One 10 ft. Hissing Cockroach
- One 10 ft. Stinkbug w/ scented air blast
- One walk through Bee hive box featuring bee colony, one “dancing” drone (1/2 ft.), one large queen (1 ft.), honey scented fan system
- One 15 ft. Giant Walking Stick
- Line of 6-8 2 ft. long leaf cutter ants w/ cut away mound and larvae
- Branch with (4) four 2 ft. long fire fly insects of separate species
- One 15 ft. “dancing” Peacock Jumping Spider
- One 10 ft. wingspan Flame Skimmer Dragonfly eating a mosquito
- One 10 ft. flower with 3 ft. Ladybug eating an Aphid
- One 3 ft. Cicada on a tree with 3 ft. molt
- One 5 ft. Screaming Katydid
- One 2 ft. Dung Beetle on 5 ft. dung ball w/ funny facts told by beetle
- One 8 ft. tall Western Harvester Ant mound w/ micro-fossil covering and 3 animatronic ants
- 10 static Western Carpenter Ants
- One Static Photo-Op Design T.B.D.