

**TOWN OF KITTERY**  
**FACILITY USE POLICY FOR THE KITTERY COMMUNITY CENTER AT FRISBEE COMMON**

**Section 1 – Policy Purpose**

**1.1** Portions of the Town-owned Kittery Community Center at Frisbee Common are available for use by the public for activities and programs that meet the needs and interests of the community. This may include meetings, theatrical productions, sporting events, weddings, and other functions. The purpose of this policy is to set forth the process, rules and regulations that govern responsible use of the Facility. This Policy applies only to the Kittery Community Center at Frisbee Common and may not be applied to another Town facility without formal action of the Kittery Town Council.

**Section 2 – Captions & Definitions**

**2.1 Captions:** The captions or headings that are used in this Policy are used only as a matter of organization and convenience and in no way define, limit, construe or describe the scope or intent of the provision of this Policy.

**2.2 Definitions:** As used in this Policy, unless the context otherwise indicates, the following terms have the meanings indicated:

**Alcohol** - Means the substance known as ethyl alcohol, hydrated oxide of ethyl or spirit of wine which is commonly produced by the fermentation or distillation of grain, starch, molasses, sugar, potatoes or other substances, and includes all dilutions and mixtures of these substances including imitation liquor which means any product containing less than 1/2 of 1% alcohol by volume which seeks to imitate by appearance, taste and smell liquor or which is designed to carry the impression to the purchaser that the beverage has an alcohol content.

**Application for the Service and Consumption of Alcohol** – Means an optional component of the Facility Use Agreement.

**Direct Expense** – Means an expense incurred by the Town, which it would not have otherwise incurred as part of its normal operation, but did incur as a direct result of private use of the Facility. The following are examples of the types of direct expenses that could be incurred by the Town as the result of private Use of the Facility: (1) A User wishing to hold a Function outside of normal Facility operating hours requires that the Town pay a building supervisor to be present during the Function; (2) A Function that requires a dedicated police presence will require that the Town pay police officers for the duration of the Function; (3) Damage, beyond normal wear and use, that occurs to the Facility or its equipment during a Function will require repair or replacement.

**Facility** – Means the Kittery Community Center at Frisbee Common including the interior and exterior premises.

**Facility Use Agreement** – Refers collectively to the policies, agreement and form(s) including the KCC Alcohol Policy and Application for the Service and Consumption of Alcohol if applicable, required for the use of the Kittery Community Center at Frisbee Common (Facility).

**Facility Use Period** – Means the date(s) and time(s) defined in the Facility Use Agreement during which the User has secured the rights and responsibilities to use the Facility for a defined purpose.

**Function** – Means the generic term used to collectively describe the various types of Facility uses allowed under this Policy, including private functions by invitation only and those open to the public.

**KCC** - Means the Kittery Community Center at Frisbee Common, owned and operated by the Town of Kittery, Maine.

**KCC General Manager** – Means the Agent of the Town, or his/her designee, responsible for the supervision and operation of the KCC.

**Patron** – Means any individual authorized by the User, through invitation or open-call to the general public, whether for a fee or at no charge, to attend or participate in the User’s Function.

**Police Chief** – Means the Town of Kittery Chief of Police

**Rental Fee** – Means the fee charged for specific use of a portion of the Facility as defined herein and by the Facility Use Agreement. The Rental fee includes utility costs such as heat, electricity, water and sewer, but does not include other fees identified in this Policy such as security deposit, surcharges, Direct Expenses, etc.

**Service and Consumption of Alcohol** – Means the act of furnishing alcohol to Patrons whether for a fee or at no charge and/or the consumption of alcohol by Patrons.

**Town** - Means the Town of Kittery, Maine, a body corporate and politic.

**User** – Means the entity entering into a contractual agreement with the Town for the use of the Facility as defined in the Facility Use Agreement.

### Section 3 – Facility Use

**3.1 Types of Facility Use:** The following types of Facility use are hereby defined for the purpose of applying policy:

**(A) Town and Kittery School Department Use:** Refers collectively to all Facility use by the Town and Kittery School Department. Such use may include, but is not limited to, administrative activities, meetings, classes, programs (including athletics, fine arts, etc.) special events and other activities sponsored or co-sponsored by the Town or Kittery School Department.

**(B) Federal, State & Local Government Use:** Means any variety of activities associated with the function and operation of federal, state, county and local government other than the Town and Kittery School Department. Such activities and events may include, but are not limited to public meetings, trainings, emergency management & services and public outreach activities, but does not include those activities and events defined under Sections 3.1.G and 3.1.H of this Policy.

**(C) Low Impact Meetings:** Means meetings sponsored by a User other than the Town or School Department that are (1) conducted in a multi-purpose space, not including the kitchen, theater and gymnasium, (2) are held during normal hours of operation; (3) do not require dedicated KCC personnel; (4) do not require outside services such as catering; and (5) are conducted by a qualified category of User as defined herein. The purpose of defining this type of use is to preserve the community spirit of the Facility so that is available for community-based initiatives.

**(D) Classes/Trainings:** Means classes or trainings sponsored by a User other than the Town or School Department. Such classes or trainings may be offered for a fee and vary in subject matter, but must be consistent with all Facility use policies and any applicable local, state and federal laws and policies while also preserving the mission and character of the KCC. Target audiences may vary and include both private (closed) and public (open) invitation to participate.

- (E) Performing Arts Events:** Means any variety of dramatic, musical or artistic events sponsored by a User other than the Town or School Department. The nature of this type of use is distinct in that it typically requires some combination of use of the theater, backstage, technical booth, dressing rooms and related support services often over a period of days or weeks. This usage is distinct from use of the theater for non-performing arts events. Examples include: Theatrical productions, concerts, and dramatic readings.
- (F) Athletic Events:** Means any variety of athletic activities and events sponsored by a User other than the Town or School Department that requires use of the gymnasium and related equipment. This may include, but is not limited to, athletic leagues, competitions and clinics. This usage is distinct from use of the gymnasium for non-athletic functions.
- (G) Political Process Events:** Means non-partisan activities and events that promote citizen engagement in the operation of federal, state, county and local government and the election process. Such activities and events may include, but are not limited to voting, constituent meetings, gathering signatures for petitions, forums and debates, but does not include those activities and events defined under Section 3.1.H of this Policy.
- (H) Political Campaign Events:** Means any variety of activities and events designed to influence or promote the nomination or election of one or more candidates to political office or to influence the outcome of a referendum vote. Such activities and events may include, but are not limited to fundraisers, meet and greets and rallies, but does not include those activities and events defined under Section 3.1.G of this Policy.
- (I) Special Events:** Means all other events not expressly defined under Section 3.1 A-H of this Policy, that are sponsored by a User other than the Town or School Department. Special events may utilize one or multiple rooms in the Facility. Uses may include, but are not limited to, ceremonies, annual meetings, tradeshow, banquets, fairs and meetings that do not qualify as “low impact” under Section 3.1.C of this Policy.

**3.2 Category of Facility Users:** The following categories are for determining fees and charges:

- (A) Group I:** The Town and Kittery School Department;
- (B) Group II:** Nonprofit corporations as defined by Maine Revised Statute Title 13-B: Maine Nonprofit Corporation Act, or as defined by an equivalent Nonprofit Statute in another State, when such organization seeks to hold a function that will assist Kittery Residents with meeting basic or physiological needs. For the purpose of this Policy, basic needs are defined as those physical requirements for human survival such as food, shelter, warmth, etc. The purpose of this category is to provide an opportunity for the Town to support such efforts through a reduction in Facility rental fees as described more fully herein;
- (C) Group III:** Civic organizations that provide service(s) to the Kittery Community such as Rotary, Kiwanis, or the American Legion;
- (D) Group IV:** Nonprofit corporations as defined by Maine Revised Statute Title 13-B: Maine Nonprofit Corporation Act, or as defined by an equivalent Nonprofit Statute in another State, and are not given a different designation under Section 3.2 of this Policy;
- (E) Group V:** Kittery Residents and Kittery-based businesses;

**(F) Group VI:** Non-resident individuals and businesses;

**(G) Group VII:** Incorporated or un-incorporated Political Action Committees, campaign committees/organizations, political parties and individual candidates seeking election to public office, without regard to state charitable designation or Internal Revenue Services tax designation;

**(H) Group VIII:** Divisions of Federal, State, county and Local Government, excluding the Town and Kittery School Department.

**(I) Other:** Any entity not covered under Groups I – VIII above and subject to approval of the KCC Board of Directors.

**3.3 Use of the Facility and Equipment:** The Town makes no representations or promises with respect to the Facility or its equipment except as set forth in the Facility Use Agreement. The use of the Facility by the User shall be conclusive evidence against the User that the User accepts the Facility and its equipment “as is” and that said Facility and its equipment were in good and satisfactory condition at the time such possession was taken.

**3.4 Priority Scheduling:** Use of the Facility is given first to functions sponsored or co-sponsored by the Town then to functions sponsored or co-sponsored by Kittery School Department and then to all other Users.

**3.5 Establishment of Facility Use Fees:** The KCC Board of Directors, working in collaboration with KCC General Manager and under the terms of this Policy, will establish and periodically adjust the rates for all fees related to the Use of the Facility including, but not limited to: rental fees; surcharges; deposits; and penalties. Fees may be adjusted at any time. Rate changes will take effect on the date set by the KCC Board of Directors. Rate changes will not apply to Functions for which a Facility Use Agreement has been fully executed and confirmed prior to the date set for the new rate changes except as follows: If the Facility Use Period is 12 or more months from the date the new rates take effect the Town may require that the new rates be applied to such existing Facility Use Agreement. Upon receiving notice from the Town, the User will have the option to accept the rate change and amend the Facility Use Agreement or terminate it without penalty.

**3.6 Facility Rate Sheet:** Unless otherwise stated in this Policy, specific dollar amounts for fees are not included as they will change. Fees will be maintained on the KCC Facility Rate Sheet and amended independently from this Policy.

**3.7 Application of Fees:** The following table outlines the method for applying rental fees established for the different categories of Facility Users. Users will be advised of any known additional charges such as deposits or Direct Expenses passed to the User from the Town, while completing the Facility Use Agreement.

Group	Fee	Limitations
Group I (Town)	No Fees Charged	<ul style="list-style-type: none"> <li>▪ School Dept. must pay any Direct Expenses incurred by the Town</li> </ul>
Group II (Basic Needs)	<ul style="list-style-type: none"> <li>▪ Unlimited Low Impact Meetings</li> <li>▪ No Rental Fee for up to 2 Functions per calendar year</li> <li>▪ Full Rental Fee required after 2 free Functions</li> </ul>	<ul style="list-style-type: none"> <li>▪ User must pay any Direct Expenses incurred by the Town</li> <li>▪ Security deposit(s) may still be required</li> </ul>

Group	Fee	Limitations
Group III (Civic)	<ul style="list-style-type: none"> <li>▪ Unlimited Low Impact Meetings</li> <li>▪ No Rental Fee for up to 2 Functions per calendar year</li> <li>▪ Full Rental Fee required after 2 free Functions</li> </ul>	<ul style="list-style-type: none"> <li>▪ User must pay any Direct Expenses incurred by the Town</li> <li>▪ Security deposit(s) may still be required</li> </ul>
Group IV (Non Profit)	<ul style="list-style-type: none"> <li>▪ Unlimited Low Impact Meetings</li> <li>▪ 50% discount in regular Rental Fees for up to 2 Functions per calendar year</li> <li>▪ Full Rental Fee required after 2 reduced Functions</li> </ul>	<ul style="list-style-type: none"> <li>▪ User must pay any Direct Expenses incurred by the Town</li> <li>▪ Security deposit(s) required</li> <li>▪ Discount does not apply to rental packages that are already discounted</li> </ul>
Group V (Resident)	<ul style="list-style-type: none"> <li>▪ Limited Low Impact Meetings</li> <li>▪ 10% discount on regular Rental Fees</li> </ul>	<ul style="list-style-type: none"> <li>▪ Town reserves the right to limit Low Impact Meetings based on Facility usage</li> <li>▪ Security deposit(s) required</li> <li>▪ Discount does not apply to rental packages that are already discounted</li> </ul>
Group VI (Non Resident)	<ul style="list-style-type: none"> <li>▪ Full Rental Fees apply</li> </ul>	<ul style="list-style-type: none"> <li>▪ Low Impact Meetings not available</li> </ul>
Group VII (Political)	<ul style="list-style-type: none"> <li>▪ Full rental Fees apply</li> <li>▪ No discounts applied</li> <li>▪ May not apply under a different user category</li> </ul>	<ul style="list-style-type: none"> <li>▪ Low Impact Meetings not available</li> </ul>
Group VIII (Government)	<ul style="list-style-type: none"> <li>▪ Meetings open to the public are free</li> <li>▪ Meetings, trainings, events, etc. closed to the public pay full rental fees</li> </ul>	<ul style="list-style-type: none"> <li>▪ Must pay any Direct Expenses incurred by the Town</li> </ul>
Other	<ul style="list-style-type: none"> <li>▪ Determined on a case-by-case basis.</li> </ul>	

**Section 4 – Facility Reservation and Use Agreement Procedures**

- 4.1 Facility Use Agreement:** Use of the Facility by an entity other than the Town will require completion of a Facility Use Agreement.
- 4.2 Oversight:** The KCC General Manager is responsible for overseeing Facility reservations and usage. This will include working with Users to complete a Facility Use Agreement and ensure that critical milestones, requirements and submissions are met prior to issuing final approval of the Facility Use Agreement.
- 4.3 User:** Any individual negotiating and executing a Facility Use Agreement for personal use or on behalf of an organization must be twenty-one (21) years of age or older.
- 4.4 Reservations:** Reservations are accepted up to Twenty-four (24) months in advance and may be made at any point prior to the requested date(s) provided, at the sole discretion of the KCC General Manager, enough time remains for the User to meet all requirements and for the Town to issue final approval of the Facility Use Agreement. Reservations for use of the Facility must be made in writing on a Facility Use Agreement and is a two-step process. A Reservation will be considered confirmed only when the rental fee and security deposit have been paid in full. A confirmed reservation does not constitute final approval of the Facility Use Agreement, but it does reserve the space while the User completes other requirements set forth in this Policy and the Facility Use Agreement. Unpaid reservations will be held as a courtesy for 48 hours, but this does not constitute a confirmed reservation. After 48 hours, the KCC General Manager may release an unpaid reservation for use by another User. In summary, the process for securing use of the Facility is a three-step process as follows:

1. **Reservation Inquiry:** Date(s) is held for 48-hours
2. **Confirmed Reservation:** Town and User have a signed Facility Use Agreement and User has paid the required rental fee and security deposit.
3. **Final Approval:** User has completed all requirements set forth in this Policy and the Facility Use Agreement.

**4.5 Reservation Changes:** Changes to a confirmed reservation are allowed at no additional charge provided space is available and all requirements can be met including staffing. The KCC is under no obligation to accommodate requests to change a confirmed reservation.

**4.6 Termination of a Facility Use Agreement:** A Facility Use Agreement may be terminated at any time by the Town or User for reasons described herein. Should the Town or the User terminate a Facility Use Agreement the following will apply:

**(A) Termination by Town:** The Town may terminate a Facility Use Agreement in event that the Facility is required for Town emergency use, weather or public safety emergencies, or the Facility has sustained damage, or its operation has been compromised. If termination occurs for these reasons The Town and User may negotiate new date(s) equal to the balance remaining on the original Facility Use Period with no additional charges. If such negotiation is not possible or mutually agreed upon the Town will issue a refund of any fees paid to the Town according to the following schedule:

1. **Termination Occurs Before the Facility Use Period begins:** The Town will refund to the User any rental fees and/or deposits paid by the User after deducting any Direct Expenses incurred by the Town in connection with said Facility Use Agreement.
2. **Termination Occurs During the Facility Use Period:** The Town will refund a pro-rata share of the rental fee for the unused portion of the Facility Use Period and any Deposits after deducting any Direct Expenses incurred by the Town in connection with said Facility Use Agreement.

The Town may also terminate a Facility Use Agreement for just cause which will include: failure of the User to comply with all provisions and requirements set forth in this Policy and the Facility Use Agreement; and violation of any applicable local, state and federal laws, rules and policies. If termination occurs for non-compliance the User shall forfeit all fees and deposits and is liable for any Direct Expenses incurred by the Town in connection with said Facility Use Agreement that exceeds payment made by the User.

In the event of termination by the Town, the User hereby waives any and all claims for damages or loss of profit or other compensation that might arise out of such termination.

**(B) Termination by User:** The User may terminate a Facility Use Agreement by providing written notice to the KCC General Manager. In the event that a User terminates a Facility Use Agreement, the Town will refund to the User any rental fees and/or deposits paid by the User after deducting any Direct Expenses incurred by the Town in connection with said Facility Use Agreement and any liquidated damages to be paid by the User according to the following schedule:

1. **Notice Given 0 to 60 Days prior to Facility Use Period:** The User must pay 100% of the rental fee plus any Direct Expenses incurred by the Town in connection with said Facility Use Agreement.

2. **Notice Given 61 to 120 Days prior to Facility Use Period:** The User must pay Seventy-five-percent (75%) of the rental fee plus any Direct Expenses incurred by the Town in connection with said Facility Use Agreement.
3. **Notice Given 121 to 180 Days prior to Facility Use Period:** The User must pay Fifty-percent (50%) of the rental fee plus any Direct Expenses incurred by the Town in connection with said Facility Use Agreement.
4. **Notice Given 181 Days or more prior to Facility Use Period:** The User must pay Twenty-five-percent (25%) of the rental fee plus any Direct Expenses incurred by the Town in connection with said Facility Use Agreement.
5. **Termination of Free Rentals:** Termination of a Facility Use Agreement by a User who qualified for a free function as a member of either Group II or III, as defined under Section 3.7, will be subject to a flat-rate cancellation surcharge plus any Direct Expenses incurred by the Town in connection with said Facility Use Agreement. The KCC Board of Directors will establish, and periodically adjust, the rate of this surcharge as outlined under Section 3.5. This surcharge will be applied regardless of the number of days notice given to terminate and therefore is not subject to the provisions of Section 4.6.B.1-4. This provision does not apply to cancellation of Low Impact Meetings as defined under Section 3.1.C.

**(C) Vacating Facility:** Upon termination of the Facility Use Agreement for whatever reason, the User agrees to immediately remove, at User's expense, all its property from the Facility. If the User has a substantial amount of equipment such as is expected with a theatrical production, removal must occur within 24 hours unless otherwise agreed to by the Town.

**(D) Limited Refund of Cancellation Surcharge:** In the event that the Town is able to rent the Facility to a different User for all or a portion of the terminated Facility Use Period, a refund of up to Seventy-Five-percent (75%) of the charges applied under Section 4.6.B.1-5 will be issued. In the event that only a portion of the Facility Use Period is able to be rented, the refund is to be pro-rated by that portion. The Town is under no obligation to find a new User to rent the Facility. Refunds do not include any Direct Expenses incurred by the Town in connection with said terminated Facility Use Agreement.

**4.7 Facility Room Changes:** The KCC General Manager may assign or reassign rooms, as deemed appropriate based on the nature of the Function, estimated number of participants, cancellations of other Functions, etc. A change will not be made unless it meets or exceeds the needs of the User.

**4.8 Required Submittals:** The following information must be submitted with the Facility Use Agreement in order for it to be considered complete:

**(A)** Payment-in-full of the rental fee\*

**(B)** Payment-in-full of any required Deposits and Surcharges;

**(C)** Copies of any required permits, licenses and insurance certificates as set forth in this Policy and the Facility Use Agreement;

**(D)** The names of the primary and alternate designees who will be the point of contact during the Function;

- (E) Any additional requirements set forth by the KCC General Manager including, but not limited to, police and custodial service requirements.

\*KCC General Manager may approve alternative arrangements for Functions using the KCC Box Office.

**4.9 Application for the Service and Consumption of Alcohol:** This Application is an optional component of the Facility Use Agreement and will require additional fees. Users must be able to comply with all regular requirements set forth in this Policy and the Facility Use Agreement before the Application for the Service and Consumption of Alcohol will be considered. The Town reserves the right to deny an Application for the Service and Consumption of Alcohol for any reason consistent with this Policy and at the discretion of the KCC General Manager and/or Police Chief, Applications that present a degree of risk that is inconsistent with or exceeds acceptable parameters for the safe operation of the Facility and/or safety of all Facility Patrons. Denial of an Application for the Service and Consumption of Alcohol alone does not prohibit the User from using the Facility, but does prohibit the Service and Consumption of Alcohol at that Function.

**(A) Application Review & Approval:** The KCC General Manager is responsible for overseeing the Application process for the Service and Consumption of Alcohol. The KCC General Manager will work with the User to complete the Application as part of the Facility Use Agreement and ensure that critical milestones and submissions are met. Final approval of the Application requires approval by both the KCC General Manager and Police Chief.

**(B) Application Submittals:** The following information must be submitted with the Application in order for the Application to be considered complete; this is in addition to submittals required by the Facility Use Agreement:

1. Payment-in-full of the Alcohol Surcharge;
2. The name and contact information of the Qualified Catering Service who will be working the Function;
3. Copies of all required permits, licenses and insurance certificates set forth in this Policy and the Facility Use Agreement;
4. The name(s) of the catering personnel who will be serving alcohol at the Function and proof that each possesses a current certificate of completion of an alcohol server education course approved by the State of Maine;
5. Any additional requirements set-forth by the KCC General Manager including, but not limited to, police and custodial service requirements.

**4.10 Payment:** Payment of all fees, deposits and surcharges must be made in United States currency. Payment may be made by cash, check or credit card. The Town may require a waiting period for all non-certified checks to clear the bank. A fee will be charged on all checks returned for non-payment. The Town may restrict payment options or make arrangement for alternate methods of payment for any User if, at its sole discretion, the financial interests of the Town will be better served.

**4.11 Refunds:** Refunds will be issued by check and mailed to the User within thirty (30) business days following the Function or notice of termination of the Facility Use Agreement. The Town may delay issuing a refund if additional time is required for the Town and User to settle issues with Facility damage, cleaning, Direct Expenses or load-out (equipment removal).



- 4.12 Use of KCC Box Office:** The Town may make available to a User the Facility Box Office for an additional charge. Use of the KCC Box Office will require the development of a specialized process between the User and the Town which may modify provisions of this Policy for refunds, exchange of Facility use related fees and distribution of User's revenue generated through ticket sales. As part of this specialized process, the Town may retain a portion of User's box office revenues until User's show load-out is successfully completed. The purpose of this Provision is to allow the User and Town to develop a process which is mutually beneficial while still protecting Town interests.

## **Section 5 – General Provisions**

- 5.1 Limited Use:** The User may not utilize the Facility for any purpose other than what is specified in the Facility Use Agreement.
- 5.2 No Sublet:** The User may not sublet the Facility or in any way assign the Facility to another entity.
- 5.3 Facility Use Period:** Unless otherwise stipulated in the Facility Use Agreement, the User, its agents, personnel and patrons are not permitted in the Facility before or after the times designated as the Facility Use Period. This provision is not intended to restrict public access to the Facility under normal hours of operation. User is advised to extend the Facility Use Period beyond that which is needed for the actual event to include time for setup and cleanup. The User is hereby notified that exceeding the Facility Use Period may result in additional rental and labor charges. Adherence to this provision ensures that a conflict does not occur with a Function scheduled to follow the User's own Function and to prevent the User from incurring additional charges. Advance delivery of equipment or supplies may be allowed provided there is secure space available for storage, delivery and/or storage does not impact regular operation of the Facility and it has been approved in advance by the KCC General Manager.
- 5.4 Designated Area:** The Facility Use Agreement will designate portions of the Facility that are to be used exclusively by the User. User will also have limited access to portions of the Facility that are considered common or shared such as hallways, entrances, stairwells. Use of such common areas may not in any way impede regular use and is not intended to include special use unless defined in the Facility Use Agreement.
- 5.5 User's Designee:** The User must designate a primary and alternate person who will be the point of contact during the Function. Either the primary or alternate person must be present for the duration of the Function including set-up and clean-up.
- 5.6 KCC Facility Supervision:** Town personnel responsible for the supervision of the Facility must be present whenever the Facility is in use. Such personnel are present during regular hours of operation at no additional charge to the User. Use of the Facility outside of regular hours is allowed, but may require the User to pay for Facility supervision. Under limited circumstances, the KCC General Manager may allow the User to occupy the Facility outside of regular hours without supervision by Town personnel provided the User designates an individual who will assume responsibility for securing the building at the conclusion of the Facility Use Period. This exemption is primarily limited to those professional Users whose use of the Facility spans multiple days and who have demonstrated a high degree of responsibility in using the Facility; for example a theater production company. The KCC General Manager will advise the User of any personnel requirements for Facility supervision and any associated fees when completing the Facility Use Agreement.
- 5.7 Code of Conduct:** The User will ensure that his employees, volunteers, agents and Patrons comply with all applicable local, state and federal laws and policies including requirements set forth in the Facility Use Agreement or rules for the operation of the Facility. Illegal activity of any kind is prohibited and

appropriate, respectful behavior is to be maintained at all times. Respect for the neighbors surrounding the Facility is required at all times. Those violating these requirements will be ejected from the Facility and jeopardize future use of the Facility by the User. If an individual(s) becomes too disruptive, Town personnel are duly authorized to order them to leave the Facility or to notify law enforcement. Facility Use Agreements can be revoked at any time, at the sole discretion of the Town, for violation of this provision and may result in immediate termination of the Function and forfeiture of all usage fees and deposits.

- 5.8 Service and Consumption of Alcohol:** The Service and Consumption of Alcohol at the KCC is strictly prohibited without an approved Application for the Service and Consumption of Alcohol as described more fully in Section 4.9 of this Policy. A User who wishes to serve alcohol must complete this Application and adhere to all additional requirements set forth in Section 7 – Special Provisions for the Service and Consumption of Alcohol of this Policy and those set forth in the Facility Use Agreement.
- 5.9 No Smoking:** The KCC is a smoke-free campus and as such smoking is strictly prohibited outdoors and indoors. This prohibition includes smoking as part of a performance.
- 5.10 Police and Security Services:** The Kittery Police Department is responsible for public safety and law enforcement on the KCC Campus. At the sole discretion of the KCC General Manager and Police Chief, dedicated police services may be required. If required, the Police Chief will determine the number of officers required for the Function. Use of private security services, such as those providing protection for an individual, require prior approval of the Police Chief. Coordination between the private security service and the Town is required and all procedures and protocols established by the Police Chief must be followed. Approval of the use of a private security detail does not supersede or replace the rights, obligations and responsibilities of the Town for maintaining public safety and law enforcement. The use of Town police services may, at the sole discretion of the KCC General Manager and Police Chief, still be required of the User even if the use of a private security service has been approved. The User is responsible for payment of Town police services which includes a “Special Detail” rate for each officer and a police vehicle surcharge. These rates are developed and maintained by the Kittery Police Department. Users are advised that the Special Detail rate is calculated at time and one-half per officer plus overhead and is subject to a minimum of four (4) hours. The KCC General Manager will advise the User of the total cost for police services while completing the Facility Use Agreement.
- 5.11 Public Safety:** The following provisions will be in full force and effect during the Facility Use Period in order to maintain safe operation of the Facility and/or safety of the public:
- (A) Interruption of Function:** The Town may cause the interruption of any Function, including presentations or performances in the interest of public safety.
  - (B) Safety Announcements:** The Town may make or require announcements to be made regarding emergencies and/or safety protocols at any time during the Facility Use Period, including before, during or after a presentation or performance.
  - (C) Facility Evacuation:** The Town, at its sole discretion, may require the evacuation of the Facility in the interest of public safety which may result in the termination of a Function. Should it become necessary to evacuate the Facility for a period of time, the User may retain possession of the Facility for a period equal to the original Facility Use Period at no additional charge, provided such time does not interfere with another User. If, at the sole discretion of the Town, it is not possible to extend the Facility Use Period, the Facility Use Agreement will be terminated in accordance with Section 4.6 of this Policy.

- (D) Clear Access Maintained:** The User shall neither encumber nor obstruct the Facility sidewalks, stairs, exits, lobbies, hallways, aisles, nor allow the same to be obstructed or encumbered in any manner. Proper clearance must be maintained at all times to a width of 44-inches around all exits.
- (E) Fire/Safety Codes:** All sets, costumes, props, flame effects, flash pots, laser equipment, and any other materials used during a presentation or performance must conform to all applicable fire and safety codes required by the State of Maine and the Town. Fire prevention codes that prohibit smoking, flammable decorations, open flame, and explosive or flammable fluids, gases and compounds must be observed. The Town may require written evidence that all such codes have been met and that operators have the required licenses. The Town may deny the use of any material, item or special effect that presents a degree of risk that is inconsistent with or exceeds acceptable parameters for the safe operation of the Facility and/or safety of all Facility Patrons.
- (F) Hazardous Material:** The User will not bring onto the Facility any material, substance, equipment or object which is likely to endanger the life of, or cause bodily injury to, any person in the Facility or which is likely to constitute a hazard to the Facility without the prior approval of the KCC General Manager. The Town may refuse to allow any such material, substance, equipment or object to be brought onto the Facility or to require the immediate removal any such material, substance, equipment or object from the Facility if discovered.
- (G) Maximum Capacity:** The User will abide by any occupancy limits established for the different rooms in the Facility.

**5.12 Custodial Services:** Custodians are present during regular hours of operation of the KCC or by special arrangement. Custodians are agents of the KCC and are responsible for the supervision and maintenance of the Facility. Custodians are available to assist the User with questions, Facility problems and maintenance issues; however it is not the Custodians' responsibility to undertake tasks that are the responsibility of the User and/or any of the User's agents. Functions that occur outside of regular hours of operation, are of a certain nature or are large in scope may, at the sole discretion of the KCC General Manager, require custodial services to be paid for by the User. The KCC General Manager will advise the User of any additional custodial service requirements and associated fees during the process of completing the Facility Use Agreement.

**5.13 Cleaning the Facility:** General cleanup after a Function is the User's responsibility. Town personnel will be available to provide any cleaning products to assist User in returning the Facility to the same condition as it was prior to the Function; normal wear and use expected. Unless otherwise specified in the Facility Use Agreement, the User is not required to take down tables and chairs that belong to the Town. The following basic guidelines will assist the User in restoring the Facility to the condition it was received:

- The Facility, including portions of the Facility used exclusively by the User and common areas, must be left in a clean, secure and reasonable manner;
- Trash and recyclables must be put in the proper receptacles;
- Any signs, decorations, etc. put up by the User must be removed;
- Food, beverages, personal items, gifts, equipment, etc. that belong to the User, its agent, or patrons are to be removed from the Facility;
- Tables or similar surfaces must be cleared of debris and wiped down;
- If kitchen was used all surfaces and equipment such as stoves, sinks, microwaves, etc. that were used must be cleaned.

- If Town-owned dishes, serving utensils, etc. were used they must be cleaned and dried.
- Common use items made available to the User must be clean, in good repair and returned to the area from which they came.
- Any other items stipulated in the Facility Use Agreement or by the KCC General Manager

**5.14 Facility & Equipment Damage:** The User is responsible for any damage to the Facility and its equipment that exceeds normal wear and use whether caused by an intentional or an accidental act of the User or the User's agents, employees or Patrons.

**5.15 Security Deposit:** A Security Deposit is required to cover: any damage or disrepair that may occur to the Facility or Town-owned equipment; any cleaning expenses incurred if the User does not complete contractual cleaning requirements or when conditions are created during the Facility Use period that exceed the User's ability to adequately rectify; and to cover any Direct Expenses incurred by the Town in connection with use of Facility by the User. The Security Deposit is a refundable surcharge, separate from the rental fee; it is collected when the User executes the Facility Use Agreement. The amount of the Security Deposit is equal to a percentage of the total Facility Rental Fee. The KCC Board of Directors will establish, and periodically adjust, the percentage rate of the Security Deposit as outlined under Section 3.5. Any waiver or reduction of the Security Deposit does not release the User from its obligation to pay for any damage or cleaning charges that the Town would otherwise be entitled. If no damage occurs during the Function, all cleaning obligations are met and any Direct Expenses have been paid the User will receive a refund for the entire amount of the deposit. If additional cleaning is required, damage occurred or the Town has incurred Direct Expenses in connection with use of Facility by the User, payment will be deducted from the Security Deposit. A Partial refund will be issued only after all expenses have been determined. Any refund due to the User will be issued in accordance with the process outlined in Section 4.11 of this Policy. If expenses exceed the deposit, the User will, within thirty (30) business days of notification from the Town, pay the excess cost.

**(A) Alcohol Surcharge:** A surcharge will be added to the Security Deposit for Functions that include the Service and Consumption of Alcohol. The purpose of this surcharge is to provide greater protection of the Facility and its equipment. The KCC General Manager will provide the amount of the surcharge during the application process.

**5.16 Damage/Cleaning Assessment:** Town personnel will conduct a preliminary assessment of the Facility at the end of the Function. At that time the User will be advised of any initial concerns and/or items that need to be addressed prior to the User leaving the Facility. The KCC General Manager will conduct a final assessment on the next business day or sooner if the portion of the Facility used by the User is scheduled for another Function. The User may elect, but is not required, to be present for the final assessment provided scheduling does not delay the assessment from occurring before the next use of said portion of the Facility. Assessment includes, but is not limited to the portions of the Facility used directly for the Function, common areas, parking areas, and facility grounds.

**5.17 Loss of User's Property:** The Town accepts no liability for any damage to or loss of User's property or that of the User's employees, volunteers, agents and Patrons.

**5.18 No Joint Venture:** The Town will not be party to any agreement between the User and its agents. The User is solely responsible for the negotiation, maintenance, payment and resolution of any dispute of its contract for services or goods provided to the User by an agent other than the Town.

**5.19 No Charging:** The User will not charge any expense to the Town or directly against anticipated box office revenues. The Town will not honor or pay any invoice or charge made by the User or its agent and the creditor will be referred back to the User for payment.

**5.20 Advertising & Promotion:** The User may not advertise or promote a Function to be held at the Facility until a confirmed reservation is in place; see Section 4.4 of this Policy. User's advertising or promotion must in no way imply a partnership with or endorsement of the Function by the Town or KCC. Any use of the Town or KCC name except as specifically provided herein is expressly prohibited without the written consent of the Town. The Town reserves the right to assess penalties if these provisions are not adhered to, including termination of the Facility Use Agreement. The following guidelines apply to advertising and promotion for Functions held at the Facility:

**(A) Print Requirements:** All printed advertising or promotional materials including, but not limited to, posters, fliers, programs, handbills, or advertisements developed for mixed media must include the following information:

1. **Facility Name:** All references to the Facility must be as the "Kittery Community Center" and listed prominently as the location of the Function.
2. **Star Theatre:** Functions using the theater must reference the theater as the "Star Theatre". The Town will provide the User with the Star Theatre logo and related information which must be included. When using the Star Theatre logo it is permissible to include the tagline "at Kittery Community Center" in order to satisfy both listing requirements.
3. **Facility/Box Office Contact Information:** The following information must be included:
  - **KCC Website:** [www.kitterycommunitycenter.org](http://www.kitterycommunitycenter.org)
  - **Facility Address:** 120 Rogers Road/Rte 236, Kittery, Maine
  - **Phone:** 207-439-3800

**(B) Radio/Television Requirements:** Advertising through radio or television may require an adaption of the print requirements listed under Section 5.20.A of this Policy, but should preserve the general intent of said section. While the use of the logo may not be appropriate the User will include the correct name of the Facility and, when applicable, the Star Theatre.

**(C) Facility Advertising Opportunities:** The Town shares your interest in achieving success for your Function. The following advertising and/or listing opportunities may be made available to the User at no additional charge:

1. Listing of the Function in both digital and print Facility calendars provided a confirmed Facility Use Agreement is in place before any print deadlines.
2. Limited advertising space on Facility bulletin board(s).
3. Listing of the Function on the Facility roadside "marquee" during the week(s) covered by the Facility Use Period. This is limited to large Functions such as theater productions, performances, tournaments that are open to the public.
4. Use of "A" frame sign(s) at the Facility on the day of the Function.
5. Limited space for mounting banners provided by the User. Banners must be attached according to methods approved by the KCC General Manager.

6. Other advertising and promotional opportunities may arise and may be reviewed on a case-by-case basis.

**(D) Public Notice of Event Cancellation:** When cancellation or termination of a scheduled public event occurs, for whatever reason, the User must make a reasonable number of public announcements, at the User's own expense, concerning the cancellation as soon as possible following the decision to cancel or terminate. This includes, but is not limited to, newspapers, news departments at commercial television stations, and any radio stations on which advertisements for the event were run. The Town will assist with public notification of event cancellation by removing advertising materials from its Facility and calendars and when appropriate by posting notice of cancellation at the Facility.

**(E) Mailing Lists:** The Town will not make available for sale or use its mailing list(s) for advertising, promotion or other use by the User. The only exception to this provision is that the Town, upon request, will provide a list of Patrons who purchased tickets through the KCC Box Office for the User's Function.

**(F) Materials Distributed at Function:** All promotion and advertising materials including programs and other literature that is to be handed out to Patrons must be removed from the Facility by the end of the Facility Use Period.

**5.21 Conducting Sales or Special Services at the Facility:** Users who wish to use the Facility to make a presentation, offer advice, provide assistance, or offer for sale products or services that are of a financial or legal nature must comply with the following:

**(A)** Provide proof of a current and appropriate license or certification that establishes his/her/its right to offer such advice, services or products. This may include state bar certification, Insurance license, or Securities License.

**(B)** A disclaimer must be placed on all flyers, post-boards, promotional, and advertising material which explicitly states: "Not recommended, endorsed or affiliated with the Town or Kittery Community Center" in 12-point font or larger.

**(C)** Financial and/or legal paperwork may not be completed at the Facility without the express permission of the Town. Users are advised to conduct these matters at their normal business location.

The Town may expand this provision when at its sole discretion it believes the Town, the Facility and the public will be better served and protected by requiring such proof of licensing or certification prior to allowing the Function to be held the Facility.

**5.22 Additional Services/Equipment:** The KCC General Manager may make available to the User certain additional services and/or equipment to support the User's Function. Such services and equipment are optional and may require additional fees. The User may elect to accept such services and/or equipment during the application process.

**5.23 Animals:** Animals are not permitted in the Facility except under the following conditions:

**(A) Service Animals:** As defined by the Federal Americans with Disabilities Act, Title II (State and local government services) "Service Animals are defined as dogs that are individually trained to do work or perform tasks for people with disabilities". Generally, Title II permits service animals to accompany people with disabilities in all areas where members of the general public are allowed to go.

**(B) Show Animals:** Animals that are required for a show, lecture, educational activity or other similar event require the advanced approval of the KCC General Manager. The animal must remain in the control of a qualified handler at all times while in the Facility. The Town reserves the right to require any documentation such as proof of vaccinations, etc. prior to approval.

**5.24 Special Use of Facility Kitchen:** The Town maintains all permits and/or licenses required by the State of Maine for operation of the kitchen for food to be prepared and served on the premises. A User who desires to use the kitchen to prepare food for consumption or sale off the premises is required by the State of Maine to maintain additional permit(s) and license(s). These are issued by the State directly to the individual (User) and are not the responsibility of the Town. The Town will work with the User in the event that the State requires a kitchen inspection in connection with the User's permitting/licensing process. The Town may require proof of such required permit(s) or license(s).

## Section 6 – Special Provisions for Performing Arts Events

**6.1 License/Permits/Copyrights:** The User shall obtain and pay the fee for all licenses and permits necessary to conduct operations arising from the use of patented, trademarked, franchised or copyrighted music, materials, devices, processes or dramatic rights used on or incorporated in the event. The Town may require evidence of such licenses being in effect, with licensing organizations such as ASCAP, BMI and SEAC. The User shall indemnify the Town against any question of use of any such material described above in accordance with the indemnification requirements set forth in this Policy.

**6.2 Recording and Broadcast:** The User agrees that any visual or audio recording and/or live or pre-recorded broadcast will comply with all appropriate permit or licensing requirements for subject(s) being recorded. In the event that a recording or live broadcast will occur during a performance(s) signage must be posted in advance to inform the public that they may be recorded during the performance.

**6.3 Backstage Access:** The User is responsible for arranging a system of backstage access control if desired. Such a system will not interfere with normal operation of the Facility and must be reviewed in advance by The KCC General Manager.

**6.4 Seat Kills:** If the KCC Box Office is being utilized, the User will notify the KCC General Manager as soon as possible if any of the seats will be unavailable for ticket sales because they are being used for equipment.

**6.5 Signed Contract for the Act:** The KCC General Manager may require a copy of the signed contract between the User and the act to be presented as part of the Facility Use Agreement. Portions of this signed contract concerning financial arrangements may be excised.

**6.6 Preparing & Restoring the Theater:** The following guidelines will assist the User in preparing the Theater for a specialized performances and for restoring the theater at the conclusion of the Facility Use Period:

**(A) Set Construction & Painting:** The Theater space is not intended to be used as a scene shop because of the damage to the facility and equipment such activities can cause. It also reduces the amount of time the theater is not actively serving its primary mission. Basic construction of platforms, stairs, doorways and flats, as well as prime and base coat painting are not to occur in the theater. Construction activities in the theater are limited to final stages of set construction and painting: Installation, assembly, finishing and/or covering of substantially pre-constructed units, and top coat detail and texture finish painting. is allowed in the Theater provided the User takes all reasonable precautions to protect the Facility from damage caused by such construction. Indoor construction is limited to the theater and may not be done in hallways, dressing rooms(s) or other common areas in the

Facility. For the purpose of this Policy, painting is considered a part of set construction. The User is required to protect floors, rugs, walls, curtains and equipment from any damage or staining caused by painting; this includes any painting done outdoors.

**(B) Restoration to House Standards:** The User is allowed to make changes to lighting and sound equipment provided such changes are done by a qualified technician and do not damage or permanently alter the lighting or sound systems. At the conclusion of performances the User must restore the lighting to the provided standard house lighting plot and restore the sound system to its standard house configuration. This restoration includes wiring for both the lighting and sound systems. The User may elect, at additional cost, to use the Town's theater technician(s) to return the lighting and sound systems to the house configurations. Use of Town theater technicians requires advance notice and approval to allow time to schedule the technician and ensure the theater is ready for the next User.

**(C) Scissor Lift:** The User will have access to and permission to operate the Town's scissor lift for the purpose of working on lights and rigging in the theater provided there is a certified operator. If the User does not have a certified operator the Town will provide one and additional charges may apply.

**6.7 Rental Limitation for Set Construction:** In order to ensure that use of the Star Theatre for programming is maximized, the Town may limit additional rental time for set construction and related activities to no more than one extra half-week in advance of the first week's rental.

**6.8 Town Use of Star Theatre:** The Town reserves the right to use the Star Theatre for low impact programming, including, but not limited to, movies and lectures when the theater has been rented for a week or more. The Town will work with the User to schedule programming at a time that does not conflict with planned performances, set construction and rehearsals. The User is not entitled to a discount of rental fees as a result of such use of the Theatre by the Town though the Town will work with the User to reach a mutually beneficial arrangement. The Town will be responsible for any damage to the User's sets, props, or equipment that may occur during such use up to a dollar amount that does not exceed the total cost of the User's rental fee. The User is required to provide the Town with documentation to substantiate the type and extent of the damage as well as any costs associated with its repair and/or replacement.

**6.9 Inspection of Facility:** Upon completion of load-out and restoration of the theater to its house standards, the Town will conduct an inspection with the User to ensure that restoration is complete and that there is no damage or other items that must be addressed before the final financial settlement is completed.

## **Section 7 – Special Provisions for the Service and Consumption of Alcohol**

**7.1 Limitation:** The Service and Consumption of Alcohol is hereby limited to beer and wine. This includes champagne, sparkling wines and hard cider, but expressly prohibits other types of alcoholic beverages.

**7.2 Age Restriction & Carding Practices:** No person under the age of 21 years may possess, consume or serve alcoholic beverages. Maine law requires a licensee or licensee's employee or agent to verify the age of any person under 27 years of age by means of a reliable and valid photographic identification containing that person's date of birth before selling, giving or otherwise providing an alcoholic beverage. The Town requires a licensee or licensee's employee or agent to card anyone that orders alcohol who appears to be 35 years of age or younger in order to comply with Maine law. A licensee may refuse to serve liquor to any person who fails to display upon request a reliable and valid identification card as described above.



- 7.3 Functions Geared Toward Minors:** The service and consumption of alcohol is prohibited at any Function geared primarily toward minors.
- 7.4 Designated Areas:** The consumption of alcohol is restricted to the interior areas of the Facility designated in the Application. The User will ensure signs are posted indicating any alcohol-restricted areas. Maine law prohibits a patron from transporting and/or consuming alcohol outside of designated areas. Failure to follow this law is a Class E crime which could result in arrest and/or expulsion from the Facility.
- 7.5 Service of Alcohol:** Alcohol may be served only from areas designated in the Application. All alcohol containers, including kegs, barrels, casks or other containers must remain behind the serving area. Alcohol may only be served by personnel who possess a current certificate of completion of an alcohol server education course approved by the State of Maine. All alcohol must be served in paper or plastic containers or glassware provided by the Catering Service.
- 7.6 Hours of Service & Last Call:** In accordance with Maine State Law, alcohol may not be served between the hours of 1:00am and 5:00am Monday through Saturday and 1:00am and 9:00am on Sundays. The Service of Alcohol must cease at least 30-minutes prior to the end of the Function, as specified in the Application, to allow Patrons adequate time to prepare to leave.
- 7.7 Prohibited Activities:** The Service of alcohol at events may be advertised, but no marketing practices to encourage the consumption of alcohol will be allowed. Oversized drinks, contests, volume discounts or similar incentives are not permitted. The use of any device or game of chance (“drinking game”) to aid directly in the Service and/or Consumption of Alcohol is strictly prohibited.
- 7.8 Qualified Catering Service:** A Qualified Catering Service is required for the Service of Alcohol. No other entity may provide Service of Alcohol, including the User, unless it is a Qualified Catering Service. A Qualified Catering Service is an individual, partnership, firm, association, corporation or other legal entity properly licensed for off-premise Service of Alcohol in accordance with the alcoholic beverages statutes of the State of Maine (MRS Title 28-A). Proof of such licensing must be submitted with the User’s Application and must include copies of all required licenses and permits. The following rules and regulations for a Catering Service will be in full force and effect for the duration of the Function, including set-up and clean-up:
- (A) Permits:** The Catering Service must secure all required local and/or state permits that are necessary for the Service of Alcohol at the Facility. Such permits must be conspicuously posted for the duration of the Function.
  - (B) Regulation:** The Catering Service must comply with all applicable local, state and federal laws for the Service of Alcohol as well as any applicable requirements set forth by this Policy, the KCC Facility Use Agreement and Application for the Service of Alcohol.
  - (C) Liquor Liability:** The Catering Service must provide a liquor liability insurance policy as described more fully under Section 8 of this Policy.
  - (D) Server Training:** All Catering Service personnel serving alcohol must possess a current certificate of completion of an alcohol server education course approved by the State of Maine. No person under the age of 21 years may serve alcohol.
  - (E) Impairment:** All Catering Service personnel will refrain from consuming alcohol for the duration of the Function, including set-up and clean-up. Any personnel found or suspected of being under the influence or otherwise impaired shall be immediately relieved of duty and asked to leave the Facility.

**(F) Uniform:** All Catering Service personnel must, for the duration of the Function, wear a highly visible form of identification such as a button, badge, apron, uniform or other appropriate form of identification.

**(G) Loss of Catering Service Privileges:** Failure to comply with all applicable local, state and federal laws for the Service of Alcohol as well as any applicable requirements set forth by this Policy, the Facility Use Agreement and Application for the Service of Alcohol may result in the immediate suspension and/or long-term loss of Catering Service privileges at the KCC at the sole discretion of the Town.

**7.9 Transport & Storage of Alcohol:** The User and/or Catering Service are responsible for the purchase, transportation and secure storage of alcohol at the Facility. All alcohol and related containers must be disposed of properly and/or removed from the Facility immediately after the Function. Patrons are not allowed to furnish their own alcohol. This expressly prohibits “BYOB – Bring Your Own Bottle”, “Brown Bagging”, or the use of a flask or any other method a Patron might use to transport alcohol into and/or out of the Facility. Failure to follow this law is a Class E crime which could result in arrest and/or expulsion from the Facility.

**7.10 Prevention:** It is the responsibility of the User and Catering Service to work together to prevent underage consumption of alcohol, to prevent Patrons from becoming intoxicated, to refuse service to intoxicated Patrons, and to facilitate the safe removal of Patrons from the Function, if their actions warrant removal. It is recommended that the User and Catering Service collectively take steps to encourage food and non-alcoholic beverage consumption to help reduce the risk of intoxication. Toward that end, the User must ensure that non-alcoholic beverages be made available for free or at a lower cost than any alcoholic beverages and an adequate supply of food be available for Patrons. The Service of Alcohol may be discontinued for any Patron or for an entire Function at the discretion of the User, Catering Service, or Town personnel.

**7.11 Safe Transportation:** The User will promote options for safe transportation of Patrons who consume alcohol at the Function.

## **Section 8 – Insurance and Indemnification**

**8.1 Insurance:** The following policies of insurance or pooled risk management coverage may be required of the User and/or its agent(s). The User and/or its agent(s) is responsible for procuring and maintaining at its own expense, such coverage for the duration of the Facility Use Period. Prior to the Function the User must provide the Town with a certificate of insurance giving evidence of all required insurances including required amounts.

**(A) Commercial General Liability:** Coverage must provide a minimum of one-million dollars (\$1,000,000) per occurrence combined single limit for bodily injury (including death), personal injury and property damage (including loss of use). The Town, its officers, officials, agents, employees, volunteers and KCC Board of Directors must be listed on the certificate of insurance as additional insured.

**(B) Liquor Liability:** Any Function that includes the Service and Consumption of Alcohol must include a Liquor Liability Insurance policy. Coverage must provide a minimum of one-million dollars (\$1,000,000) each common cause. The Town, its officers, officials, agents, volunteers, employees, KCC Board of Directors and the User, its officers, officials, agents, volunteers and employees must be listed on the certificate of insurance as additional insured.

**(C) Other Insurance Requirements:** The Town may require that additional insurances be maintained by the User or the User's commercial agents, such as, but not limited to caterers. This may include, but is not limited to Workers Compensation and Automotive Insurance. The KCC General Manager will notify the User of any such requirements during the completion of the Facility Use Agreement.

**8.2 Waiver & Indemnification:** The User hereby understands and hereby agrees to assume all of the risk which may be encountered through the use of the Facility. To the fullest extent allowed by law, the User hereby releases and holds harmless the Town, its officers, its officials, agents, employees and KCC Board of Directors from any and all responsibility and legal liability for any property or personal injury damages to the User, its agents, employees or Patrons resulting from any claim arising from use of the Facility. User will indemnify, hold harmless, and defend them in any and all liability, actions, causes of actions, claims, expenses, and damages on account of any property or personal damages or injuries sustained by the participant which may arise out of and in connection with use of the Facility by the User, its agents, employees or Patrons.

User expressly agrees that this release, waiver and indemnity agreement is intended to be broad and inclusive in its terms and is to be interpreted as permitted by Maine law. If any portion hereof is held to be invalid or unenforceable, it is agreed that the remainder shall continue in full legal force and effect. This release contains the entire agreement between the parties hereto and the terms of this release are contractual and not a mere recital. User intends for this waiver, release and indemnity agreement to be binding upon its relatives, personal representatives, heirs and assigns.

This waiver does not release acts of gross negligence nor willful and wanton misconduct of any party.

User is advised, but not required, to seek legal counsel before accepting the terms of this waiver and indemnification provision.

**8.3 Subrogation:** To the extent of insurance proceeds actually received, and to the extent permitted by the party's insurance contract(s) the parties hereby waive any right of subrogation that such insurance companies may have against the Town or User.

**8.4 Security Bond/Deposit:** The Town may require the User to post a security bond or deposit in the form of cash or deposit in the form of certified check, or to arrange posting by a duly accredited bonding company.

## **Section 9 – Governing Law, Severability, Amendment**

**9.1 Governing Law:** This Policy, and any rights and obligations provided herein and any claims or disputes relating thereto, shall be governed by and construed in accordance with the laws of the State of Maine.

**9.2 Severability:** If any one or more of the provisions contained in this Policy, or the application thereof in any circumstance, is held invalid, illegal or unenforceable in any respect for any reason, the validity, legality and enforceability of any such provision in every other respect and of the remaining provisions of this Policy shall not be in any way impaired, unless the provisions held invalid, illegal or unenforceable shall substantially impair the benefits or the remaining provisions hereof.

**9.3 Amendment:** The KCC Board reserves the right to propose amendments to this Policy for consideration by the Kittery Town Council. The Kittery Town Council reserves the right to amend this Policy.

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