

**AGREEMENT BETWEEN  
MILWAUKEE COUNTY ZOO  
AND  
C.2K ENTERTAINMENT INC DBA IMMOTION VR**

This Agreement (“Agreement”) is made and entered into effect as of \_\_\_\_\_, 2022 (the “Effective Date”), by and between MILWAUKEE COUNTY ZOO (as the “County” or “Zoo”) and C.2K Entertainment Inc dba Immotion VR (the “Vendor” or “Immotion”). Referenced together, the County and the Vendor are the “Parties” to this Agreement.

**WITNESSETH:**

**WHEREAS**, the Parties wish to enter into this Agreement governing the construction, installation, programming, and management of a virtual reality theater at the Milwaukee County Zoo.

**NOW THEREFORE**, the Parties do herewith, in consideration of mutual promises and other good and valuable consideration, agree as follows:

**PROVISIONS:**

1. **Scope:** The Vendor will create and install the immersive virtual experience (the “Experience”) set forth on Exhibit A. The Experience shall occur in the area set forth on Exhibit B (the “Premises”). The Vendor may not use the Premises for any other purpose than set forth herein.
  - 1.1. **Virtual Reality Experience:** Vendor agrees to develop, produce, and direct the Experience; however, the Executive Zoo Director or his/her designee maintains the right to prohibit any aspect thereof that he/she deem to be inappropriate or inconsistent with the Zoo’s mission, values, and vision. Vendor recognizes that the Milwaukee County Zoo supports a family environment and will at all times provide material, shows and programs which adhere to both organizations’ missions through appropriate family friendly programming.
  - 1.2. **Ticket Sales; Crowd Control:** The Zoo is permitted to sell admission to the Experience at prices to be mutually agreed upon, subject to the revenue distribution set forth in Section 3. The Zoo will provide staff necessary to support public attendance at the Experience. The Vendor will provide the Zoo with flat rate cost for private and special events, subject to the revenue distribution set forth in Section 3.
  - 1.3. **Equipment:** Vendor will install and provide any and all equipment required to operate the Experience. Such Equipment shall remain the property of Vendor throughout the Term; provided, however, that Vendor shall provide the Zoo and its patrons with a non-exclusive license to use the Equipment. The Equipment will be provided to the Zoo free and clear of all liens and encumbrances.
  - 1.4. **Headsets:** As part of the Equipment, Vendor will provide to the Zoo no less than thirty-six (36) operational virtual reality-enabled headsets at all times as more particularly described in Exhibit A to the Zoo (the “Headsets”).
  - 1.5. **Façade Implementation and Premises Improvement:** Vendor will alter and improve the Premises so as to ensure it is a suitable host site for the Experience, in the reasonable judgment of the Parties and consistent with the terms of this Agreement.
  - 1.6. **Testing Cycles:** Vendor will be permitted two (2) complete or partial plays of a virtual reality experience (each, a “Cycle”) per Headset per day for which Vendor does not need to charge

the end user price where these are for the purposes of testing or set up. Unused free cycles are not carried forward.

1.7. Special Event Fees: The Vendor and the Zoo will mutually agree upon a flat rate fee for unlimited use during special events.

1.8. Training: Vendor will provide Zoo staff with training in the safe and proper use of the Equipment.

2. Term: This Agreement shall commence on the Effective Date and terminate on December 31, 2026.

3. Payment:

3.1. Commission: Each Party shall be allotted a commission of Fifty Percent (50%) on all Gross Receipts of sales of Experience tickets. "Gross Receipts" shall be defined as the total of all receipts (cash, checks, credit cards) derived from all ticket sales, less sales tax and a fee of 2.5% per credit card transaction. Zoo will remit the portion of commission allotted to Vendor. Zoo and Vendor will be responsible for paying sales tax on their respective portions of Gross Receipts.

3.2. Private Rental Rates: Private rental rates will be used for group sales. Each party will be allotted a Fifty Percent (50%) commission on Gross Receipts from private rental rates. Mutually agreed upon rental rates are:

2-hour rental: \$1,250

4-hour rental \$2,650

3.3. Sales Reports: With its monthly commission payment, the Zoo agrees to compile and provide to Vendor a detailed summary report of all sales activities and a financial reconciliation of all commissions owed and paid Vendor. The Vendor will provide the Zoo with a monthly report detailing the uses per each virtual reality headset.

4. Rights Reserved to County: County reserves the right to award a contract with one (1) or more additional vendors to provide other tickets or sellable items in the environs surrounding the Premises and to operate other operations; provided, however, the County will not permit the installation or operation of another virtual reality experience which competes with the Experience on the premises of the Milwaukee County Zoo.

5. Legal Compliance: Vendor shall, at Vendor's expense, promptly comply with all laws, rules, and regulations made by any governmental authority having jurisdiction over Vendor's obligations under this Agreement. Vendor shall comply with all applicable federal, state and municipal laws and regulations. Vendor shall pay all fees and taxes required to carry out the provisions of this Agreement.

6. Disruptive Event: A "Disruptive Event" is defined as: (i) an Act of God that damages the Premises such that they cannot be utilized by the Vendor for a period exceeding consecutive ten (10) days; or governmental regulation or advisory (including, without limitation, Milwaukee County Administrative Order), recognized health threats as determined by the World Health Organization, the Centers for Disease Control, or local government authority or health agencies (including but not limited to the health threats of COVID-19, H1N1, or similar infectious diseases), curtailment of transportation facilities, or other similar occurrence, where any of those factors, circumstances, situations, or conditions or similar ones prevent, dissuade, or unreasonably delay Zoo attendance,

or where any of them make it illegal, impossible, inadvisable, or commercially impracticable to fully perform the terms of the Agreement. In case a Disruptive Event should permanently damage the Premises beyond a point where the Milwaukee County Zoo chooses not to reopen the facilities or close the Zoo beyond a point where the Zoo will likely opt not to reopen the Zoo throughout the Term, the Milwaukee County Zoo shall have the right to terminate the Agreement five (5) days after such a decision is made.

7. Signage/Advertising: All proposed banners, signage and advertising on or within the Premises and environs, whether temporary or permanent, must be pre-approved in writing by the Executive Zoo Director or his/her designee. Vendor also agrees, at its expense, to participate in minimum of six (6) publicity, promotional and/or marketing and advertising opportunities for the Milwaukee County Zoo during this Term. Vendor agrees to allow the Milwaukee County Zoo to video tape, film and/or photograph the shows for marketing purposes including, but not limited to advertising, general promotions, public relations efforts and social media promotions.
8. Marketing: Vendor shall notify the Zoo's Marketing Manager or his/her designee as soon as it is aware of any television, radio, print, electronic or other media interviews or reports to be prepared regarding, at or concerning the Premises. The Executive Zoo Director or his/her designee maintains the right to prohibit any advertisement, marketing or sponsor acknowledgement that he/she deems to be inappropriate, inaccurate or otherwise. The Zoo has the exclusive right and authority to procure sponsorship funding for the exhibit/show. Sponsorship funding procured by the Zoo will not be part of the revenue share.
9. Staff: Vendor shall provide employees or contractors who are professional, friendly and courteous to other associates of the Milwaukee County Zoo, customers and the general public. Employees or contractors shall maintain a neat appearance, exercise good public communication skills, and conduct themselves in a high standard acceptable to County. Vendor employees or contractors shall wear appropriate attire which, in the sole determination of the Milwaukee County Zoo, clearly distinguishes Vendor employees or contractors from County staff. The Executive Zoo Director or his/her designee shall have the right, at all times, to notify the Vendor, in writing, of any reasonable objections to the quality of services rendered by employees or contractors, and to require that his/her objections be remedied within a reasonable period of time.
10. Alterations and Improvements:
  - 10.1 Plans: Vendor's plans to renovate, improve and alter the Premises hereunder are contingent upon Vendor obtaining an amount of not less than one hundred percent (100%) of the estimated cost of the construction and renovation to the Premises. All costs associated the construction and renovation of the Premises, including disconnection and/or hookup of utilities in conjunction with such construction or renovation, shall be the responsibility of the Vendor.
  - 10.2 County Approval: Prior to the start of any construction or renovation of the Premises, including any subsequent alterations or renovations, Vendor shall submit detailed construction plans and specifications to the County and to the Architecture and Engineering Section of the Milwaukee County Department of Administrative Services, together with the name of Vendor's proposed contractor(s), for review and approval. Submittals shall include, but not limited to, shop drawings containing product information and materials and products shall be approved by County. Conditions for approval shall include, but not be limited to provision that Vendor shall obtain and comply with, prior to commencing any alterations, additions and improvements, all necessary federal, state and local permits and licenses from the appropriate governmental authorities.

- 10.3 Construction Standards: All development and landscaping shall be completed in a first-class manner and consistent with the standards established for other work in similar County locations. Any and all alterations, additions and improvements shall be made in compliance with all statutes, laws, ordinances, rules, and regulations of any governmental authority having jurisdiction over the Premises. Vendor shall also indemnify and hold County harmless from and against all statutory liens or claims of liens of any contractor, subcontractor, laborer or any other party which may arise in connection with any alteration, addition or improvement to the Premises undertaken by or on behalf of Vendor. Any structures, alterations, additions or improvements installed on the Premises by Vendor (including generic signage permanently affixed to the Premises) shall become the property of County upon the expiration or termination of this Lease. In no event shall Vendor make any alterations or additions to the Premises without the prior written consent of County, except in the event of an emergency, when such consent shall not be required, provided that notice shall be given as soon as reasonably possible thereafter.
- 10.4 Builder's Risk: Vendor or its general contractor shall provide Builder's Risk insurance coverage on a completed value form insuring for special perils, with Milwaukee County as additional insured and loss payee on the insurance certificate. Coverage is during construction period and is intended to terminate when the work has been completed and the Premises are ready for occupancy. Prior to construction, Vendor shall supply the Director or his/her designee with written evidence of Builder's Risk insurance. Vendor shall not commence construction activities without written approval from the Director or his/her designee. The Director or his/her designee shall provide a written response to the Vendor within thirty (30) days of receiving written evidence of the Vendor's Builder's Risk insurance documents.
- 10.5. Construction Escrow: Vendor agrees to provide evidence satisfactory to the County that the total amount of funds necessary to construct the proposed renovations to the Premises are immediately available and dedicated to such purpose and documentation is in place to provide for the orderly disbursement of such funds during the course of construction to pay for all federal, state and local permits, material, labor, supplies, and any other miscellaneous items used or necessary for the construction of the renovations. Vendor shall deliver to County evidence reasonably acceptable to the County that the total amount of such funds are immediately available and dedicated for the above purpose prior to any construction activities taking place on the Premises. Any such evidence of the Vendor's financial capacity shall also include a letter from the Vendor's banking institution stating that the Vendor has secured a line of credit that is immediately available to Vendor for such purposes in an amount sufficient to cover 100% the costs thereof.
- 10.6 Licensed Tradespersons: Vendor agrees that all renovations and improvements shall be performed by fully licensed contractors and subcontractors who shall utilize industry standard supplies, equipment, and construction methods in the performance of their duties. Vendor shall require its contractors and subcontractors to obtain and maintain adequate insurance coverages with liability limits not less than that required of Vendor by County. Vendor shall have responsibility to enforce compliance with these insurance requirements and provide evidence of insurance for any contractor or subcontractor as acceptable to the County.
- 10.8 Construction Documents for Renovations and Improvements: Vendor agrees that within sixty (60) days after Substantial Completion of each construction project, renovation or improvement project, Vendor shall provide to County a complete set of construction documents to be included as a minimum: (a) as-built drawings; (b) a copy of all work orders and change orders; (c) a copy of all lien-waivers; (d) operation manuals or cut sheet

drawings of any mechanical fixtures or equipment which was installed; (e) manufacturer's warranties or extended warranties; (f) a copy of all construction permits and signed drawings; (g) City of Milwaukee final occupancy permits, if applicable. "Substantial Completion" shall mean that the work is sufficiently complete in accordance with the Lease so that the County, in its reasonable judgment, can utilize the work as intended and any work remaining shall not limit the basic functionality of the project. Substantial Completion of construction must occur by June 30, 2022.

11. Cleaning: Vendor shall maintain its working areas in a state of cleanliness and repair to prevent injury to the public and shall ensure such areas are clean, orderly and inviting at all times, to the reasonable satisfaction of the Executive Zoo Director or his/her designee. Contractor shall make arrangements to dispose of any and all waste from the work being performed. All areas of display must be kept clean and free from any debris, e.g., zip ties, tape, etc. after assembly and removal of decorations.
12. Deliveries: Vendor shall not allow deliveries to interrupt basic Zoo operations and will make every effort to ensure that deliveries cause as little disturbance as possible. Vendor shall provide a list of delivery schedules to the Milwaukee County Zoo. Delivery vehicles shall park in designated areas which have been approved by the Executive Zoo Director or his/her designee. All deliveries for the Vendor should occur at regularly scheduled times mutually agreed upon by both parties. Vendor agrees to provide staff to timely unload and transport all supplies delivered.
13. Removal of Equipment and Supplies: Upon expiration or termination of this Agreement, Vendor shall remove, at its costs, all of its supplies, displays and related items from the Premises within thirty (30) days and shall restore the Premises to its prior condition, satisfactory to the Executive Zoo Director or his/her designee. Damage caused to the Premises by any removal of personal property or improvements to the Premises will be repaired by the Vendor. If for any reason Vendor does not comply in a timely manner with its obligations under this paragraph, then the County may make such repairs or remove, dispose of or retain such property as the County sees fit. It is mutually agreed that the County may recover from the Vendor any and all reasonable costs, as determined by the County, related to this Section. Vendor agrees to surrender the Premises in broom-clean condition, subject to ordinary wear and tear and casualty.
14. Continuity of Operations: In the event that Vendor shall be prevented for any reason from furnishing programs to the public during the Term, County shall have the right to enter immediately upon the Premises with agents, employees and contractors retained by it and to use Vendor's furnishings and equipment and render service during the period of Vendor's inability, it being understood that Vendor shall not be liable under its several insurance obligations required by this Agreement for injury or damage resulting from such operation by County. Vendor will not collect commission during such period.
15. Amplified Noise Restriction: Amplified noise shall be limited to acoustic and vocal reinforcement to provide background music throughout the Premises and environs. Events or performances with concert-style amplification must be approved in writing by the Executive Zoo Director or his/her designee. All amplified noise approved by the Executive Zoo Director or his/her designee, as well as ambient music, shall comply with the appropriate City of Milwaukee and Milwaukee County noise ordinances.
16. Inspection by County: County shall at all reasonable times have the right to enter into and upon the Premises to examine and inspect the condition thereof; provided, however, such entry shall be done in such a manner that it does not unreasonably interfere with the conduct of Vendor's use of the Premises.

17. Audit: The Contractor, Lessee, or other party to the contract, its officers, directors, agents, partners and employees shall allow the County Audit Services Division and department contract administrators (collectively referred to as Designated Personnel) and any other party the Designated Personnel may name, with reasonable notice, to audit, examine and make copies of any and all records of the Contractor, Lessee, or other party to the contract, related to the terms and performance of the Contract for a period of up to three years following the date of last payment, the end date of this contract, or activity under this contract, whichever is later. Any subcontractors or other parties performing work on this Contract will be bound by the same terms and responsibilities as the Contractor. All subcontracts or other agreements for work performed on this Contract will include written notice that the subcontractors or other parties understand and will comply with the terms and responsibilities. The Contractor, Lessee, or other party to the contract, and any subcontractors understand and will abide by the requirements of Section 34.09 (Audit) and Section 34.095 (Investigations concerning fraud, waste, and abuse) of the Milwaukee County Code of General Ordinances.
18. Insurance:
- 18.1 Vendor's Insurance: Vendor shall strictly comply with the insurance requirements set forth on Exhibit C.
- 18.2 County's Insurance: Milwaukee County is a municipal body corporate that self-funds for general liability under Wis. Stat. §§ 893.80 and 895.46(1), and automobile liability under § 345.05. Milwaukee County is also permissibly self-insured under Wis. Stat. § 102.28(2) (b) for Workers' Compensation. The protection is applicable to officers, employees and agents while acting within the scope of their employment or agency. Retentions and other costs of risk, including our contractual obligations, are financed under appropriation and fund accounting principles applicable to government operations. Nothing in this Agreement shall be construed as a waiver by Milwaukee County of any rights to immunity, limitation of liability or any other protection that Milwaukee County may have by law.
19. Indemnification: To the fullest extent permitted by law, Vendor shall indemnify the County for, and hold it harmless from, all liability, claims and demands on account of personal injuries, property damage and loss of any kind whatsoever, including workers' compensation claims, which arise out of or are in any manner connected to the Vendor's acts or omissions pursuant to this Agreement or based on any injury, damage or loss being caused by any acts or omissions of the Vendor or its agents, guests or employees. Vendor shall, at its own expense, investigate all claims and demands, attend to their settlement or disposition, defend all actions based thereon and pay all reasonable charges of attorneys and other costs and expenses arising from any such injury, damage or loss, claim, demand or action. County shall indemnify Vendor for and hold Vendor harmless from, all liability, claims and demands on account of personal injuries, property damage and loss of any kind whatsoever, including workers' compensation claims, which arise out of or are in any manner connected to the County's acts or omissions pursuant to this Agreement. Nothing contained within this agreement is intended to be a waiver or estoppel of Milwaukee County or its insurer to rely upon the limitations, defenses, and immunities available under Wisconsin, Federal, and common law, including, without limitation, those contained in the Wisconsin Constitution and Wisconsin Statutes 893.80, 895.52, and 345.05. To the extent that indemnification is available and enforceable, the municipality or its insurer shall not be liable in indemnity or contribution for an amount greater than the limits of liability for municipal claims established by Wisconsin Law.
20. Environmental Indemnification: Vendor shall, to the fullest extent provided for under any environmental laws, rules and regulations, be responsible for any required repair, clean-up, remediation or detoxification arising out of: (a) any Hazardous Materials brought onto or introduced into the Premises or surrounding areas by Vendor or its agents, or (b) Hazardous Materials located

in the Premises or environs, that are discovered or disturbed as a result of the Vendor's activities on, at or near the Premises or environs. Vendor shall indemnify, defend and hold the County harmless from any liability, cost, damage, claim or injury (including reasonable attorney fees) arising therefrom. Moreover, Vendor shall remediate and restore any affected area to at least the minimum standards as required by the WDNR or other applicable regulatory agencies. "Hazardous Materials" as the term is used herein shall mean any substance: (i) the presence of which requires investigation or remediation under any Federal, State or local statute, regulation, ordinance, order, action or policy; or (ii) which is or becomes defined as a "hazardous waste" or "hazardous substance" under any Federal, State or local statute, regulation, ordinance or amendments thereto.

21. Intellectual Property Indemnification: Vendor will indemnify and defend, at its own expense, any claim, suit or proceeding brought against Milwaukee County by a third party to the extent it is based upon a claim that the Experience or any part or use thereof infringes upon any patent, copyright, trade secret, or other intellectual property right of a third party. Vendor will pay all damages, costs and expenses awarded to third parties against Milwaukee County in such action. If any part of the Experience is, or in Vendor's opinion might be, held to infringe as set forth above, Vendor may, at the Parties' mutual agreement, (i) acquire the right for the County to continue to use the Experience within the terms of this Agreement, (ii) modify the Experience to avoid or correct the infringement, without any appreciable diminution in patron experience, in the Parties' reasonable agreement, or (iii) replace the Experience with an equivalent alternative, per the Parties' reasonable agreement. If none of such alternatives are, in the Parties' opinion, available, the Parties will terminate the Agreement, and, in addition to its obligation to pay awarded damages, costs and expenses as set forth above, Vendor will refund the commissions paid to the Zoo as set forth above, depreciated on a five-year, straight-line basis.
22. Assignment, Subletting and Subcontracting: Vendor may not assign this Agreement, in whole or in part, or sublease or rent any part of the Premises without the prior written approval of the Zoo Director. Assignment of any portion of the work by subcontract must have the prior written approval of County.
23. Termination for Default: County may terminate this Agreement if Vendor fails to comply with any provision in this Agreement, and such failure continues for thirty (30) days after a written notice from County setting forth in reasonable detail the nature of such default.
24. Termination for Bankruptcy: County may terminate this Agreement if Vendor ceases to do business as a going concern, ceases to pay its debts as they become due, or admits in writing that it is unable to pay its debts as they become due, or becomes subject to any proceeding under any federal or state bankruptcy law, or a custodian or trustee is appointed to take possession of, or an attachment, execution or other judicial seizure is made with respect to, substantially all of Vendor's assets or interest in this Agreement.
25. Independent Contractor: Nothing contained in this Agreement shall constitute or be construed to create a partnership or joint venture between County or its successors or assigns and Vendor or its successors or assigns. In entering into this Agreement, and in acting in compliance herewith, Vendor is at all times acting and performing as an independent contractor, duly authorized to perform the acts required of it hereunder.
26. Prohibited Practices:
  - 26.1 Vendor during the period of this Agreement shall not hire, retain or utilize for compensation any member, officer or employee of County or any person who, to the knowledge of Vendor, has a conflict of interest.

26.2 Vendor hereby attests that it is familiar with Milwaukee County's Code of Ethics which states, in part, "No person may offer to give to any County officer or employee or his immediate family, and no County officer or employee or his immediate family, may solicit or receive anything of value pursuant to an understanding that such officer's or employee's vote, official actions or judgment would be influenced thereby."

27. Public Records: Both Parties understand that the County is bound by the public records law, and as such, all of the terms of this Agreement are subject to and conditioned on the provisions of Wis. Stat. § 19.21, et seq. Vendor hereby agrees that it shall be obligated to assist the County in retaining and timely producing records that are subject to the Wisconsin Public Records Law upon any statutory request having been made, and that any failure to do so shall constitute a material breach of this agreement, whereupon the Vendor shall then and in such event be obligated to indemnify, defend and hold the County harmless from liability under the Wisconsin Public Records Law occasioned by such breach. Except as otherwise authorized by the County in writing, records that are subject to the Wisconsin Public Records Law shall be maintained for a period of three (3) years after receipt of final payment under this Agreement.
28. Confidentiality: Vendor agrees that all work product and oral reporting shall be provided only to or as directed by the individual who is signing this Agreement on behalf of the County department, below, and not any other person or entity, including any other County employee or official. Vendor further agrees that, aside from obligations under the public records law as more fully described in this Agreement and as determined in cooperation with the County, Vendor shall maintain all materials and communications developed under or relating to this Agreement as confidential and shall disclose them only to or as directed by the individual who is signing this Agreement on behalf of the County department, below. Vendor understands that breach of confidentiality, especially regarding information that is not subject to public records law disclosure, may harm or create liability for the County and may require Contractor to indemnify County as provided in this Agreement.
29. Notices: All notices with respect to this Agreement shall be in writing. Except as otherwise expressly provided in this Agreement, a notice shall be deemed duly given and received upon delivery, if delivered by hand or email, or three (3) days after posting via US Mail, to the party addressed as follows:

To Vendor:

Immotion Group  
Attn: Dan Wortley  
1067 Gayley Avenue  
Los Angeles, CA 90024

To County:

Milwaukee County Zoo  
Attn: Executive Zoo Director  
10001 W. Bluemound Road  
Milwaukee, WI 53226  
Amos.Morris@milwaukeecountywi.gov

Either party may designate a new address for purposes of this Agreement by written notice to the other party.

30. Waiver: No delay or omission by a party in exercising any right under this Agreement shall operate as a waiver of that or any other right. A waiver or consent given by a party on any one occasion shall be effective only in that instance and shall not be construed as a bar or waiver of any right on any other occasion.
31. Severability: The Parties agree that if any provision of this Agreement is determined to be unenforceable for any reason, such provision shall be deemed separate and severable and the unenforceability of any such provision shall not invalidate or render unenforceable any of the remaining provisions hereof.



32. Paragraph Headings: The paragraph headings contained herein are for convenience in reference and are not intended to specifically define or limit the scope of any provision of this Agreement.
33. Miscellaneous: This Agreement shall be construed, interpreted and enforced under the laws and jurisdiction of the State of Wisconsin without effect to its conflicts of law provisions. This Agreement constitutes the entire understanding between the Parties and is not subject to amendment unless agreed upon in writing by both Parties hereto. The Vendor acknowledges and agrees that it will perform its obligations hereunder in compliance with all applicable state, local or federal laws, rules, regulations and orders. The Parties expressly consent to personal jurisdiction and venue of the state and federal courts located in Milwaukee County, Wisconsin, for any lawsuit that arises from or relates to this Agreement.
34. Affirmative Action, Nondiscrimination and Equal Opportunity: Vendor hereby certifies that it is in compliance with the equal opportunity policy and standards of Milwaukee County, and Federal rules and regulations regarding nondiscrimination in employment and service delivery. Vendor certifies that in the performance of work or execution of this agreement, it shall not discriminate against any employee or applicant for employment because of race, color, national origin, or ancestry, age, sex, sexual orientation, gender identity and gender expression, disability, marital status, family status, lawful source of income, or status as a victim of domestic abuse, sexual assault or stalking, which shall include but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeships. Vendor will post in conspicuous places, available to its employees and applicants for employment, notices to be provided by the County setting forth the provisions of the non-discriminatory clause. A violation of these provisions shall be sufficient cause for the County to terminate the Agreement without liability for the uncompleted portion or for any materials or services purchased or paid for by the Vendor for use in completing the Agreement. Vendor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity or national origin.
- 34.1 Affirmative Action Program (41 CFR 60-1.40): Vendor certifies that it will strive to implement the principles of equal employment opportunity through an effective affirmative action program (and will so certify prior to the award of the Agreement), which shall have as its objective to increase the utilization of women, minorities, and disabled persons and other protected groups, at all levels of employment in all divisions of the Vendor's work force, where these groups may have been previously underutilized and underrepresented. Vendor also agrees that in the event of any dispute as to compliance with the preceding requirements, it shall be its responsibility to show that all requirements are met.
- 34.2 Non-Segregated Facilities (41 CFR 60-1.8): Vendor certifies that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not permit its employees to perform their services at any location under its control, where segregated facilities are maintained.
- 34.3 Subcontractors: Vendor certifies that it has obtained or will obtain certifications regarding non-discrimination, an affirmative action program and non-segregated facilities from proposed subcontractors that are directly related to any agreements with Milwaukee County before the award of any subcontracts, and that it will retain such certifications in its files.
- 34.4 Reporting Requirement: Where applicable, Vendor certifies that it will comply with all reporting requirements and procedures established in 41 CFR 60.

- 34.5 Affirmative Action Plan: Vendor certifies that, if it has fifty (50) or more employees, that it will develop and/or update and submit (within one hundred twenty (120) days of contract award) an Affirmative Action Plan to: Mr. Paul Grant, Audit Compliance Manager, Milwaukee County Department of Audit, 633 W. Wisconsin Ave., Milwaukee, WI 53203, Telephone No.: (414) 278-4292, or other appropriate government agency. Vendor will also require its subcontractors that have fifty (50) or more employees to establish similar written affirmative action plans.
35. Targeted Business Enterprises: While this Agreement does not have a specific participation goal established by Community Business Development Partners, Vendor is hereby directed to use active and aggressive efforts to assist Show Host in participation of Targeted Business Enterprise (TBE) firms on the County's procurements. The directory of certified firms, and further assistance with this initiative, can be obtained by contacting the Community Business Development Partners Department of Milwaukee County (CBDP) at (414) 278-4747, or [cbdp@milwaukeecountywi.gov](mailto:cbdp@milwaukeecountywi.gov). The directory of TBE firms currently certified in the State of Wisconsin can be found at: <http://wisconsin.gov/Pages/doing-bus/civil-rights/dbe/certified-firms.aspx>
36. Health and Safety Warnings: The Zoo will display at the Premises any health warning required by local or national law or as reasonably required by law. The Zoo will take reasonable steps to prohibit any person under the age prescribed by applicable law from using the Equipment. The Zoo will advertise at the Premises in a prominent position any age restrictions or guidance for viewing/using the Experience and Equipment which the Vendor reasonably requires or which are required by applicable law or regulation. The Zoo's staff will take reasonable steps to enforce such restrictions or guidance.
37. Security, Badging and Property Access: For daily access to the Milwaukee County Zoo by the vendor's staff, a Zoo issued photo I.D. is required. This I.D. is free of charge and is required for multiple access points throughout the Zoo. Vendor's staff is required to produce the I.D. during entry and upon request by security personnel. In the event a replacement badge is a required a charge of five dollars (\$5) per access card, to be paid by vendor's staff member. Zoo security personnel are permitted within the premises for the purposes of security, emergencies, checking identification and general observation of public areas. Vendor's patrons and public guests are allowed on Zoo property during hours of operation, no public access prior to opening or after the designated closing time of the zoo.
38. Maintenance: Vendor shall supply all materials necessary to safely and successfully install the Equipment. Vendor must provide excellent quality materials to meet safe standards, including safe electrical standards. Vendor is responsible for compliance with all permits and requirements, including electrical requirements. Vendor must maintain the Equipment and any improvements to the Premises throughout the Term to ensure all such Equipment and improvements are functioning as described. In the event of malfunction, the Vendor will promptly (but in no less than seventy-two (72) hours from time of notice) repair or replace such non-functioning Equipment or improvement. Damage to any property by Vendor or its designees shall be the responsibility of the Vendor.
39. Pandemic Preparedness: Vendor is responsible for compliance with all state, federal, and local orders, including Milwaukee County Administrative Orders, and all regulations and laws regarding the COVID-19 pandemic. Further, Vendor will follow all relevant agency guidance, specifically issued by the CDC, including, but not limited to, social distancing, hygiene, sanitation of work spaces, providing proper personal protective equipment to staff, proper staff screening methods and education of staff.

If determined applicable by the County, Vendor should have a written Pandemic Preparedness Plan that complies with all applicable laws, regulations, orders, and agency guidelines regarding COVID-19 and, at a minimum, meets the requirements in the Milwaukee County COVID-19 Response Preparedness Plan Checklist, attached to this Agreement as Exhibit 1.

DRAFT

# EXHIBIT A EXPERIENCE SPECIFICATIONS

## THE OPPORTUNITY



## PRE-SHOW

- Flat screen monitors
- Projection through "framed window"
- Colored gobo lighting effects
- Ambient sound
- Touch-screen interactive displays
- Customized information panels



(which could highlight MCZ's primate conservation efforts or celebrate Samson, etc.)

## THEATER



## VR HEADSET



**Pico Business Edition** headset  
**4K LCD Display** with 3840 x 2160 screen resolution per eye.  
 The Pico G2 4K provides the user a premium viewing experience.  
 With a refresh rate of 75Hz and a PPI of 810, the G2 4K has a bright and clear picture quality in a sleek, easy-to-wear package.

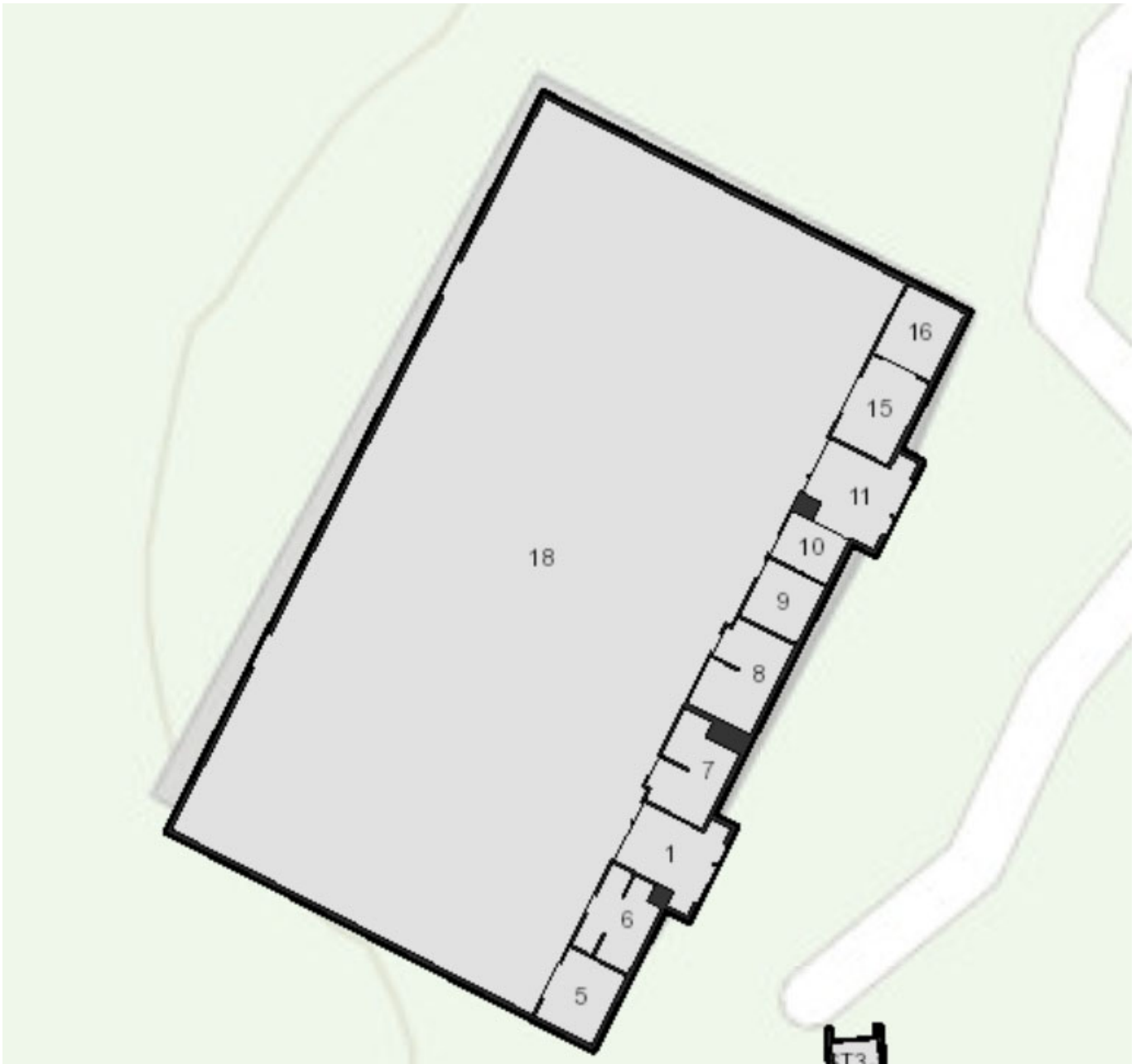
## HARDWARE



9x **VX4** (4-seater) motion platform seats. Proprietary hardware design in accordance with ASTM F- and ADIPS standards (independently verified in US/UK)  
 36x Pico Business Edition VR headsets (with 1 backup headset for each machine)  
 Proprietary AWS-based content management system.  
 Proprietary wireless motion control protocols  
 CE and RoHS certified components  
 Wireless cinema system control and VR content delivery.  
 Proprietary content encryption system  
 All controlled by a single Microsoft Surface Tablet.

**EXHIBIT B  
PREMISES MAP**





**Exhibit C**  
**Contractor Insurance Requirements for**  
**Contracts with Milwaukee County**

Every Contractor and parties furnishing services or products to Milwaukee County or any of its subsidiaries must provide County with evidence of the following minimum insurance requirements. In no way do these minimum requirements limit the liability assumed elsewhere in the contract.

Modifications to the types of coverage, limits and/or other terms should not be made without the approval of the County's Risk Manager.

**Insurance**

Contractor shall, at its sole expense, maintain the following insurance:

- A. Commercial General Liability Insurance including contractual coverage: The limits of this insurance for bodily injury and property damage combined shall be at least:
- |                                       |             |
|---------------------------------------|-------------|
| Each Occurrence Limit                 | \$1,000,000 |
| General Aggregate Limit               | \$2,000,000 |
| Products – Completed Operations Limit | \$2,000,000 |
| Personal and Advertising injury Limit | \$1,000,000 |
- B. Automobile Liability Insurance:  
Should the performance of this Agreement involve the use of automobiles, Contractor shall provide comprehensive automobile insurance covering the ownership, operation and maintenance of all owned, non-owned and hired motor vehicles. Contractor shall maintain limits of at least \$1,000,000 per accident for bodily injury and property damage combined.
- C. Workers' Compensation Insurance:  
Such insurance shall provide coverage in amounts not less than the statutory requirements in the state where the work is performed, even if such coverages are elective in that state.
- D. Employers Liability Insurance:  
Such insurance shall provide limits of not less than \$100,000 per occurrence for bodily injury; \$100,000 per employee for bodily injury by disease, and \$500,000 policy aggregate.
- E. Professional Liability/Errors and Omissions:<sup>1</sup>

---

<sup>1</sup> Professional liability (a/k/a Errors & Omissions insurance) is required for Contractors providing professional services, including, but not limited to architects, engineers, financial services, accounting, audit, legal services, consulting, and medical professionals.

This insurance shall insure the professional services of the Contractor for the scope of services to be provided under this contract. Such insurance shall provide limits of not less than \$1,000,000 per occurrence.

**Additional Requirements:**

- F. Contractor shall require the same minimum insurance requirements, as listed above, of all its contractors, and subcontractors, and these contractors, and subcontractors shall also comply with the additional requirements listed below.
- G. If any of the coverage noted above is provided on a claims made and reported period, coverage shall be maintained for not less than 2 years (24 months) after the end of the Contract by either an extended reporting period (ERP) provision or by maintaining the coverage in force.
- H. The insurance specified in (A.), (B.), and (D.), above shall: (a) name Milwaukee County including its directors, officers, employees and agents as additional insureds by endorsement to the policies, and, (b) provide that such insurance is primary coverage with respect to all insureds and additional insureds.
- I. Milwaukee County should also be granted a waiver of subrogation in its favor on the insurance specified under the insurance policy terms of in (A.), (B.), (C.) and (D.) above.
- J. The above insurance coverages may be obtained through any combination of primary and excess or umbrella liability insurance.
- K. Except where prohibited by law, all insurance policies shall contain provisions that the insurance companies waive the rights of recovery or subrogation, by endorsement to the insurance policies, against County, its subsidiaries, its agents, servants, invitees, employees, co-lessees, co-venturers, affiliated companies, contractors, subcontractors, and their insurers.
- L. Contractor shall provide certificates evidencing the coverages, limits and provisions specified above on or before the execution of the Agreement and thereafter upon the renewal of any of the policies. Contractor shall require all insurers to provide County with a thirty (30) day advanced written notice of any cancellation, nonrenewal or material change in any of the policies maintained in accordance with this Agreement. Coverage must be placed with carriers with a current A. M. Best rating of A X or better.



**EXHIBIT D**  
**VIRTUAL REALITY EXPERIENCE AND RELATED HARDWARE PURCHASE AGREEMENT**

FOR AND IN CONSIDERATION of the mutual benefits accruing and expected to accrue hereunder, this Virtual Reality Experience and related Hardware Purchase (“Virtual Reality Experience and Hardware Agreement”) is made as of \_\_\_\_\_, 2022, (“Agreement Effective Date”) by and between C.2K Entertainment, Inc. d/b/a Immotion VR (“Vendor” or “Immotion”) and Milwaukee County Zoo (“County”)(collectively, the “Parties” or individually, a “Party”).

1. **Definitions.** As used in this Virtual Reality Experience and Hardware Agreement, the following terms shall have the following definitions:

**1.1 “Confidential Information”** mean any non-public information of County or Vendor that is identified as or would be reasonably understood to be confidential and/or proprietary. Confidential Information does not include information that is: (a) is or becomes known to the public without fault or breach of the Recipient; or (b) that Discloser regularly discloses to third parties without restriction on disclosures; or (c) the Recipient obtains from a third party without restriction on disclosure and without breach of a non-disclosure obligations; or (d) is subject to Wisconsin Public Records Law, Wis. Stats. §19.21, *et seq.* Confidential Information of County includes, without limitation County Data or any information related to County’s operation, finance and/or staff (full-time, part-time, seasonal, retired or contractors) that is shared by or on behalf of County with Vendor during the Terms of this Virtual Reality Experience and Hardware Agreement.

**1.2 “County Data”:** means data and information which is and always will be owned by County and (a) to which Vendor has access in connection with the provision of the Services, (b) processed, prepared, stored, transmitted or generated by or through County and/or Vendor Website, (c) text, pictures, sound, graphics, video and other data provided by or on behalf of County or its End Users, (d) about or relating to End Users, and (e) reports describing the utilization and operation of County and/or Vendor Website.

**1.3 “Discloser”** means the party providing Confidential Information to Recipient.

**1.4 “Documentation”** means all user/operation manuals and other material or information describing the Product, as herein defined, its performance characteristics, technical features and other relevant information reasonably required for use of the Products, including all physical media upon which the materials or information are provided.

**1.5 “Virtual Reality Experience”** means services provided by Vendor to County using the Virtual Reality Experience Service per the mutually agreed terms and the Service Level Terms of this Virtual Reality Experience and Hardware Agreement.

**1.6 “Products”** mean the licenses and/or permission to use, together with the related user documentation, as identified in an agreement, Statement of Work (“SOW”) and/or any other attachment(s) that expressly incorporate the terms and conditions of this Virtual Reality Experience and Hardware Agreement.

**1.7 “Operating System”** means the system that controls the execution of application programs; an Operating System may provide services such as resource allocation, scheduling, input/output control and data management.

**1.8 “Recipient”** means the party receiving the Confidential Information of the Discloser.

**1.9 “Services”** means the provision of Products and Virtual Reality Experience or any other services to be performed by Vendor as described in the Virtual Reality Experience and Hardware Agreement, SOW or other attachment(s) that expressly incorporates the terms and conditions of the Agreement. The Services include any corrections, bug fixes, updates, other modifications to the Products or any integration design(s) implemented by Vendor

**1.10 “Use”** means loading, running, transacting, installing, initializing, and executing.

**2. Ownership of and Access to Data.** All County Data processed and/or data created by use of the Products and Services is and remains the property of the County and shall in no way become attached to the Services, nor shall Vendor have any right in or to the County Data.

**2.1** The Parties agree that at all times during the Term of this Virtual Reality Experience and Hardware Agreement, the County shall have full access to and the ability to automatically export any or all the County Data from Vendor, its Virtual Reality Experience Services at no cost to the County.

**2.2** Upon termination or expiration of the Virtual Reality Experience and Hardware Agreement, Vendor agrees to, at no additional cost to County, immediately return all County Data in its systems, Products and/or Service, in a machine-readable format mutually agreed upon by both Parties.

**2.3** County shall, at no additional cost, be permitted to request a copy of the production database.

**2.4** County shall have at no additional cost, direct access to the source database.

**3. License to Use.**

**3.1 License Grant and Use.** Subject to the terms of this Virtual Reality Experience and Hardware Agreement, Vendor hereby grants to County, and County accepts, a limited, personal, revocable, non-sublicensable, non-transferable and non-exclusive right to use the Products and Services solely for County’s own internal business purposes during the Term of the Virtual Reality Experience and Hardware Agreement, any SOW and the Agreement. All Vendor’s Products and Services are proprietary to Vendor and protected by intellectual property laws and international intellectual property treaties. County shall be permitted to make one copy of the Products for backup and

archival purposes only. Each copy must reproduce all copyright and other proprietary notices.

**3.2 Warranty of Ownership.** Vendor warrants to County that it is the author and owner or proper Licensee of the Products and Services and has the right to enter into the Virtual Reality Experience and Hardware Agreement, any SOW and the Agreement.

**3.3 Limited Warranty.** Subject to the Warranties Section herein, Vendor warrants that the Products and Services will substantially perform in accordance with the functionality and features as described by Vendor during the term of the Virtual Reality Experience and Hardware Agreement, any SOW and the Agreement.

**3.4 Use.** County, its staff, full-time, part-time, contractors or any third-party authorized by the County, may Use, access and benefit from the use of the Products and Services in its ordinary course of business, in such quantity or number of Users, as agreed upon by the Parties in writing.

**3.5 No Other Terms.** No 'click to accept' or 'shrink-wrap' agreement that may have been required for County or its employees to access the Products, Documentation or other materials and no other terms or conditions referenced therein or conditioned for use of the Products shall apply. Only the provisions of the Virtual Reality Experience and Hardware Agreement, any SOW and the Agreement shall apply to County's use of the Products, Services, Documentation, or other materials, and only a written amendment executed by an authorized representative may modify the Virtual Reality Experience and Hardware Agreement, any SOW and the Agreement.

**4. Warranties.** Vendor hereby warrants to the County as follows:

**4.1 Title.** Vendor warrants that it has full title to, and ownership of each Product and Service provided to County under the Virtual Reality Experience and Hardware Agreement, any SOW and Agreement, and that it has full power and authority to grant the licenses granted to County by the Virtual Reality Experience and Hardware Agreement, any SOW and Agreement. County's use of each Product or Service will in no way constitute an infringement or other violation of any copyright, trade secret, trademark, patent, or other proprietary right of any third party. There is currently no actual or threatened suit by any third party based on an alleged violation of its rights by Vendor.

**4.2 Operating Environment.** Each Product, Service and each module and component and function, thereof, shall be capable of operating fully and correctly with the Operating System and the combination of associated computer equipment and software comprising the operating environment.

**4.3 Performance.** Each Product and Service will function properly, be free of material defects, and operate in a substantial conformance with the representation made by Vendor.

**4.4 Viruses, etc.** Each Product and Service that is provided by Vendor to County under the terms of the Virtual Reality Experience and Hardware Agreement, any SOW and Agreement shall be free at the time of receipt by County, of any monitoring device, any programs, subroutines, code, instructions, data, functions (including but not limited to viruses, worms, date bombs or time bombs), the purpose of which is to intentionally cause the Products or Service to cease operating, or to damage, interrupt, interfere

with or hinder the operation of the Product or Service, the system in which it resides, or any other software or data on such system or any other systems with which it is capable of communicating or otherwise permit the unauthorized access to County's systems or data. For avoidance of doubt, the provisions of this Paragraph shall apply to each delivery of the Product Service, in whole or in part, to County including each error correction, patch, update, workaround or other similar interim or partial delivery form of the Products or Service.

## **5. Hardware and Warranty**

**5.1 Hardware Replacement.** For hardware issues requiring replacement, Vendor shall respond to the request made by the County within one (1) business day. Hardware service repair or replacement shall occur within one (1) business day of the request by the County, to including the time it takes for the part to ship and travel to the County. The County shall grant Vendor access to the equipment for the purposes of repair or replacement at reasonable times. Vendor will keep the County informed regarding the time frame and progress of the repairs or replacements. Hardware replacement services for defective or malfunctioning hardware shall be provided at no additional fees or costs to the County. This includes parts for updates.

**5.2 Vendor Provided Equipment and Hardware Warranty.** For Equipment and Hardware provided by Vendor to the County, Vendor warrants that it shall have good title to all Equipment and Hardware furnished to County; and, that it shall be free and clear of all liens and encumbrances. Vendor warrants that the Equipment and Hardware shall be free of defects and, Vendor shall repair or replace, without any additional charge, any Equipment and Hardware directly provided by Vendor that fails to function properly due to normal wear and tear, defective workmanship, or defective materials during the Term of the Agreement. ("Warranty Period"). All warranty remedies as to the devices covered, the entitled response, and the duration of the coverage period, will be governed by the warranty policy of the original equipment manufacturer.

## **6. Security Policies and Safeguards.**

**6.1** Vendor shall establish and maintain administrative, technical and physical safeguards designed to protect against the destruction, loss, unauthorized access or alteration of Confidential Information and/or County Data in the possession or under the control of Vendor or to which Vendor has access, which are: (a) no less rigorous than those maintained by Vendor for its own information of a similar nature; (b) no less rigorous than generally accepted industry standard; and, (c) no less rigorous than as required by applicable laws. If applicable for the maintenance and support of systems and data protection, the security procedures and safeguards implemented and maintained by Vendor shall include, without limitation:

- 6.1.1 User identification and access controls designed to limit access to County's Data and/or Confidential Information to authorized users.
- 6.1.2 The use of appropriate Security and technical controls and procedures governing data entering County's network from any external sources.
- 6.1.3 Omitted by agreement of the Parties.
- 6.1.4 Physical security measures, including without limitation securing County's Data and/or Confidential Information within a secure facility

where only authorized personnel and agents will have physical access to County's Data and/or Confidential Information.

- 6.1.5 Periodic employee training, at least once a month, regarding the security programs referenced in this section.
- 6.1.6 Periodic testing of the systems, security controls and procedures outlined in this section.
- 6.1.7 Use of encryption keys shall follow NIST best practices for the management of cryptographic keying material and security planning requirements.
- 6.1.8 Daily monitoring of security controls and alerts.

**6.2** At all times, Vendor, and any third-party vendors it utilizes to provide the Service, will:

- 6.2.1 use information security best practices, no less rigorous than generally accepted industry standards, for transmitting and storing County Data, adhering to industry standards.
- 6.2.2 employ information security best practices with respect to network security techniques, including, but not limited to, firewalls, intrusion detection, and authentication protocols, vulnerability, and patch management.

**6.3** Vendor shall report to County, with all relevant details, any event that Vendor reasonably believes represents unauthorized access to, disclosure of, use of, or damage to Content (a "Security Breach"). Vendor shall make such report within 24 hours after learning of the Security Breach.

**6.4** In the event of a Security Breach, shall (a) cooperate with County to identify the cause of the Security Breach and to identify any affected Content; (b) assist and cooperate with County in investigating and preventing the recurrence of the Security Breach ; (c) assist and cooperate with County in any litigation or investigation against third parties that County undertake to protect the security and integrity of Content; and (d) use commercially reasonable endeavors to mitigate any harmful effect of the Security Breach.

**6.5 PCI Compliance.** Vendor warrants that no payment card data is or will be captured, stored, or transmitted within any Vendor Product and that no unencrypted card data will be transmitted from the Vendor Product. Further, that the only card information stored in its data base is or will be the mask information returned from the processor and the card expiration date. Vendor shall indemnify and hold the County harmless from any suite or proceeding brought against the County because of any PCI DSS non-compliance by its capture, sorting or transmittal of such card data.

**6.6 Encryption and Transmission.** Vendor will ensure that all County Data is encrypted in transit and user passwords are encrypted at rest. For the purposes of this Virtual Reality Experience and Hardware Agreement, any SOW and the Agreement, the encrypted means an encryption algorithm that meets industry standard criteria, as defined by NIST.

- 6.6.1.** All portable devices, including, without limitation, smart phones, and tablet devices, containing or accessing County Data must utilize end-to-end encryption for transmissions from the portable device and all data at rest stored or accessed from the device.

**6.7 Security Incident Response.** In the event that Vendor becomes aware that the security of any Confidential Information or County Data, has been compromised, or that such Confidential Information or County Data has been or is reasonably expected to be subject to a use or disclosure not authorized by this Agreement (an "Information Security Incident"), Vendor shall: (a) promptly (and in any event within twenty-four (24) hours of becoming aware of such Information Security Incident), notify County, in writing, of the occurrence of such Information Security Incident, as well as what Confidential Information or County Data exposed and the number of records; (b) investigate such Information Security Incident and conduct a reasonable analysis of the cause(s) of such Information Security Incident; (c) provide periodic updates of any ongoing investigation to County; (d) develop and implement an appropriate plan to remediate the cause of such Information Security Incident to the extent such cause is within Vendor's control; and (e) cooperate with County's reasonable investigation or County's efforts to comply with any notification or other regulatory requirements applicable to such Information Security Incident.

DRAFT

**EXHIBIT E**  
**MAINTENANCE AND SUPPORT FOR PRODUCTS AND SERVICES AGREEMENT**

FOR AND IN CONSIDERATION of the mutual benefits accruing and expected to accrue hereunder, this Maintenance and Support for Products and Services Agreement (“Support Agreement”) is made as of \_\_\_\_\_, 2022, (“Agreement Effective Date”) by and between C.2K Entertainment, Inc. d/b/a Immotion VR (“Vendor” or “Immotion”) and Milwaukee County Zoo (“County”)(collectively, the “Parties” or individually, a “Party”).

**1. Maintenance and Support for Products and Services.** VENDOR shall provide County Care and Support for the maintenance and support of the Products and Services as identified any agreement or SOW.

**1.1 Description of Maintenance.** Maintenance is a software support service which includes:

**1.1.1** Software Maintenance to the Vendor developed Products.

**1.1.2** Furnish telephone support relative to the Vendor developed Products either in the original or maintained form.

**1.1.3** Provide legislative updates to the Vendor developed Products as required by the State, except those updates that require fundamental modifications to the core design of the products.

**1.1.4** Provide product enhancements on an ongoing basis, frequency based on the age of the product and market requirements.

**1.2 Telephone Support.** Vendor shall provide telephone and email support to County on the use and operation of the Products and Services.

**1.2.1** Telephone support shall be provided at 310-208-2324, from 8:00 A.M. to 5:00 P.M. (Central) exclusive of the holidays observed by Vendor.

**1.2.2** Telephone support shall be unavailable on the following holidays: 24 hours a day 7 days a week.

**1.2.3** Vendor shall provide email support to the County at the following email address: support@immotion.co.uk.

**1.3 Corrections.** Vendor shall use all commercially reasonable efforts to provide solutions, changes and corrections to the Products as are required to (a) keep the Products conforming in all material respects to the applicable Documentation and Vendor representations, and (b) correct County reported problems in the Products. Vendor’s support specialist shall return calls as soon as possible to County, and Vendor will use all reasonable efforts to investigate the error as reported by the County.

**1.3.1 Error Classification.** County will make an initial classification of each error defect in the Products and/or Services and will report such error or defect to Vendor based on the criteria set forth below.

**1.3.2 Classification Criteria.**

<b>Error Severity Level</b>	<b>Determination Criteria</b>
Severity Level 1	Fatal: Errors that meet the following criteria: <ul style="list-style-type: none"><li>• errors that prevent all useful work from being done;</li><li>• material errors in essential functions for which no work around exists; or</li><li>• errors that cause a loss of data</li></ul>

	<ul style="list-style-type: none"> <li>any error that permits unauthorized access to Personal Information or any loss thereof.</li> </ul>
Severity Level 2	<p>Severe Impact: Errors that meet the following criteria:</p> <ul style="list-style-type: none"> <li>errors that disable essential functions but for which a work around exists; or</li> <li>errors that violate material Specifications.</li> </ul>
Severity Level 3	Non-critical: Errors that disable only nonessential functions identified in the Documentation.
Severity Level 4	Minimal Impact: Non-critical problems generally categorized as an enhancement to be prioritized for inclusion on in the next version of the Product.

**1.3.3 Maintenance and Support Response Schedule.** Vendor shall use commercially reasonable efforts to respond to any reported error from the County:

Error Classification	1 <sup>st</sup> Level Response	2 <sup>nd</sup> Level Response	3 <sup>rd</sup> Level Response
Severity Level 1	1 business hours	4 business hours	Next minor release
Severity Level 2	2 business hours	1 business days	Next minor release
Severity Level 3	2 business hours	To be scheduled	As appropriate
Severity Level 4	2 business hours	To be scheduled	As appropriate

**1.3.4 Level Identification.**

**1.3.4.1** 1<sup>st</sup> Level Response – Vendor acknowledges receipt of error report.

**1.3.4.2** 2<sup>nd</sup> Level Response - Provision of patch, work around, temporary fix, or other temporary resolution of the error and documentation of corrections.

**1.3.4.3** 3<sup>rd</sup> Level Response - Official object code fix incorporated in the Upgrade or Minor Release of the Product or a code-based work around (supported by Maintenance) and reflected in the updated Documentation.

**1.3.4.4** For a Severity Level 1 Error, within the response time, Vendor agrees to assign sufficient support personnel on a 16-hour per day basis to work on the error.

**1.3.4.5** For a Severity Level 2 Error, within the response time, Vendor agrees to assign sufficient support personnel on an 8 hour per day basis to work on the error.

**1.3.4.6** "To Be Scheduled" means that the Parties shall address the error in a review meeting, to be held within three (3) business days of the initial error report, and Parties shall in good faith agree on a suitable 2<sup>nd</sup> Level Response period.

**1.3.4.7** “As Appropriate” means the Response agreed to at the review meetings.

**1.4 County Responsibilities.** County will provide Vendor with error reports in order for the Response Schedule to apply. County agrees to furnish Vendor with all information



and material requested by Vendor that are available and reasonably required for use to investigate the error.

**1.5 New Versions.** Vendor shall provide updates, new releases and enhancements to the Products and Services during the Term of the SOW and Agreement.

**1.6 Renamed, Repackaged, Re-bundled or Re-branded.** Should the Products provided to County under any agreement or SOW be renamed, repackaged, re-bundled or re-branded for any reason including, but not limited to, a merger or acquisition of Vendor, then County shall be entitled to the same access to Use and benefit from the renamed, repackaged, re-bundled or re-branded product as County currently owns of the prior product at no additional charge to County so long as the renamed, repackaged, re-bundled or re-branded product is functionally equivalent at the access level, at a minimum, and the same conditions of use apply as to the prior product.

**1.7 Product Sunset.** In the event a Product is superseded or discontinued or should any portion of the Product's functionality be removed from the Product and made part of another product not licensed by County, Vendor will provide and County will automatically be granted for any other of Vendor's Product(s) that can accomplish the Product function in any other condition, at no cost to County, provided such replacement product exists, and also provided that County is current with its Fees.

**1.8 Remedies.** If a Product does not conform to the warranties made by Vendor in any agreement or SOW, or is otherwise defective, Vendor shall correct the errors or non-conformities within ten (10) days of notice from County. If Vendor does not remedy any and all defects in the Product within such period, County may elect to terminate any or all agreements and any SOW as to such Product and any other Products dependent thereon, and County shall be entitled to the refund of all Fees for all such Products. Upon return of the Fee, County shall return or destroy the Product and any agreement and/or SOW shall terminate as to such Product.