

AGREEMENT AND WAIVER/RELEASE OF LIABILITY

This **AGREEMENT** is entered into by and between the **VILLAGE OF LAKE ZURICH**, an Illinois municipal corporation ("Village") and **COLOR VIBE, LLC** ("Company"), identified in Section 1 of this Agreement. The parties agree to be bound by the terms of this Agreement.

SECTION 1. COMPANY

Company Name: Color Vibe, LLC

Contact: Nate Chrsitiansen

Address: 1300 N. 200 E., Suite 114E, Logan UT

The Company desires to utilize various locations within the Village to hold a 5K run event ("Event") and social gathering.

SECTION 2. DUTIES OF VILLAGE

Village hereby grants to Company the right to utilize, as a venue for the Event, Paulus Park ("Park"), and portions of Old Rand Road, Main Street, and Whitney Road (the "Village Roads"), subject to the terms and conditions of this Agreement, and the projected areas of the Event as outlined in the attached map, labeled as **Attachment A** to this Agreement (hereinafter, the "Village Facilities"). The use of all Village Roads included on the proposed Event route shall be conditioned on a Temporary Use Permit, which the Company will apply for, and the Village will execute, prior to the date of the Event. The Village Facilities referenced in this Agreement and **Attachment A** are subject to any modifications agreed to by the Village and the Company after this Agreement is executed, and prior to the date of the Event. By entering into this Agreement, the Village and the Company agree that the Village Facilities and Village Roads maintain their respective intended purposes, and that the Event held by Company is to be considered an unintended purpose of both of these properties.

SECTION 3. DATE/TIMES OF PERMITTED USE

Access to the Village Facilities for the Event will be granted from 9am- 6pm on Friday, June 19th and 7am to 12pm on Saturday, June 20, 2015.

SECTION 4. DUTIES OF COMPANY

Company shall complete all applications and provide all certifications required by the Village, in advance of the Event, as required by all Village Departments. Company shall consult with all Village Departments as indicated on the Village "Special Event Permit Application", including, but not limited to the following departments: Police Department, Fire Department, Park & Recreation Department and Public Works. Company shall further consult with all other State, County and local authorities, and obtain any permits or authorization required to utilize any properties or facilities

not under the control of the Village for the Event. This shall include, but is not limited to, the Event's projected areas which are under control of the Illinois Department of Transportation (ex: State Routes 12 and 22). The Village gives no authority, nor makes any representation, in this Agreement or otherwise, that Company's use of these non-Village controlled properties is permissible for their non-intended use during the Event.

The Company agrees to accept the Park in its "as-is" condition "with all faults".

The Company shall not engage in any profane or obscene conduct or actions of any kind in the performance of the Event or in connection with this Agreement.

Company shall pay to Village all fees and costs associated with the application for a permit to use the Village Facilities. Company shall be liable for any and all fees and costs associated with setting up, hosting, and cleaning up the Event.

Company shall be responsible for the cleanup of all Village Facilities, and surrounding areas that are affected by the Event and require cleanup. It shall be under the discretion of the Village as to which areas not included in the proposed Village Facilities require cleanup by the Company. No Village personnel or equipment shall be utilized to satisfy the Company's cleanup obligations under this Agreement. The Company shall return all Village Facilities and surrounding areas to the condition in which they existed prior to the Event occurring. This shall include, but is not limited to: power-washing of all non-permeable hard surfaces (ex: streets, sidewalks, structures), flushing of all permeable surfaces with water (ex: grass, landscaping, trees, bushes), landscaping restoration, and street-sweeping collection of any and all dry particulate as produced by the Event.

The Company shall contact the Village immediately upon completing its cleanup obligations, at which time, the Village shall determine if the cleanup performed by the Company is adequate under the terms of this Agreement. If the Village is not satisfied with the cleanup performed by the Company in the cleanup of the Village Facilities and surrounding areas, the Company shall perform additional cleanup services as required by the Village. Company shall not be released from its obligations under this Section until final approval is obtained from the Village.

The Company shall repair, or provide for the repair of, any damage, loss or breakage of Village Facilities or property, caused by the Company or their personnel, during the setup, breakdown, and performance of the Event, at the Company's sole cost and expense.

The Company shall be responsible for providing and setting up any and all equipment and services necessary for the performance of the Event, including but not limited to: water and electric utilities, temporary restrooms, security, parking, crowd control and first-aid. Use of Village personnel and equipment to provide any of these, or other services, shall be subject to reimbursement by the Company to the Village for any labor, utility or equipment costs and fees, as determined by the Village.

SECTION 5. WAIVER OF LIABILITY, ASSUMPTION OF RISK AND INDEMNIFICATION

The Company shall provide, at its sole cost and expense, general liability insurance in the aggregate amount of one million dollars (\$1,000,000.00), which insurance shall include, without limitation, protection for all activities associated with the Event from the Company. The insurance shall be for a minimum of one million dollars (\$1,000,000.00) per occurrence for bodily injury and one million dollars (\$1,000,000.00) per occurrence for property damage. Prior to the commencement of this Agreement, the Company shall provide the Village with either: (a) a copy of the entire insurance policy, or; (b) a Certificate of Insurance along with a letter from the broker issuing the insurance policy to the effect that the Certificate accurately reflects the contents of the insurance policy. The insurance coverages and limits set forth in this Section shall be deemed to be minimum coverages and limits, and shall not be construed in any way as a limitation on the Company's duty to carry adequate insurance or on the Company's liability for losses or damages under this Agreement.

The Company agrees to be responsible for providing Workers Compensation and other applicable coverage for employees of the Company working within the Village.

The Company shall indemnify, defend, and hold harmless the Village, its officers, agents, employees, and volunteers from and against any and all claims, injuries or death, losses, property damage, or suits (including attorney fees), arising out of or in connection with the performance of this Agreement. This indemnity shall survive the termination of this Agreement.

This Agreement is intended to be as broad and inclusive as is permitted by the law of Illinois. Any portion of said Agreement, which is held invalid, shall not affect the enforceability or validity of any other provision found herein.

The Company has read this Waiver of Liability, Assumption of Risk and Indemnity Agreement, fully understands its terms and legal significance, and understands that it is giving up its right to sue for injuries relating to its participation in the Event and is also agreeing to reimburse the Village for any liability it may incur as provided herein. The Company acknowledges that it is signing the Agreement freely and voluntarily, and intends that the signature of its representative is to be complete and unconditional to the greatest extent allowed by law.

SECTION 6. TERMINATION

Village may terminate this Agreement based upon any one or more of the following events:

- A. Failure of Company to pay all Fees or to complete any applications for permits associated with the Event.
- B. Company fails to perform any of its duties detailed in this Agreement.

SECTION 7. CANCELLATION

Company may cancel this Agreement at any time up to 180 days prior to the Event Date by providing written notice of such election to the Village, at no cost to Company. If Company shall elect to so cancel this Agreement between 179 and 61 days prior to the Event Date, Company will be charged 50% of the permit fee and any expenses incurred in good faith by Village in preparation for the Event. For cancellations 60 days prior to the Event, Company will be charged 100% of the permit fee and any expenses incurred by Village. In the event of inclement weather or act of God that prevents the Event from occurring on the date outlined above, the Company and the Village shall mutually agree to an alternate date on which to hold the Event.

SECTION 8. GOVERNING LAW

This Agreement shall be governed and construed in accordance with the laws of the State of Illinois. Any legal actions, claims, or demands shall be handled in a court of competent jurisdiction within the State of Illinois.

SECTION 9. MISCELLANEOUS

If any term, condition, or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

Any notice required by this Agreement to be provided to the Company by the Village, or by the Company to the Village, is to be sent by email transmission, fax or certified mail, return receipt requested to the following addresses:

Bonnie Caputo
Recreation Manager
Village of Lake Zurich
200 South Rand Road
Lake Zurich, IL 60047
Bonnie.Caputo@lakezurich.org

Nate Christiansen
Color Vibe, LLC.
1300 N. 200 E., Suite 114E,
Logan, UT 84341
Nate.C@thecolorvibe.com

Notice shall be deemed effective on the date it is received.

The Village and the Company hereby warrant and represent to each other that the persons executing this Agreement on their behalf have been properly authorized to do so by its corporate authorities or directors.

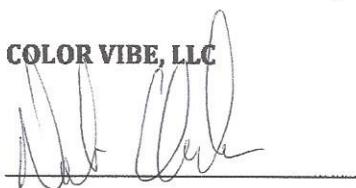
This Agreement constitutes the entire agreement between the parties to this Agreement and supersedes all prior agreements and negotiations between the parties, whether written or oral, relating to the subject matter of this Agreement.

Neither the Village nor the Company shall be under any obligation to exercise any of the rights granted to them in this Agreement except as it shall determine to be in its best interest from time to time. The failure of the Village or the Company to exercise at any time any such rights shall not be deemed or construed as a waiver of that right, nor shall the failure void or affect the Village or the Company's right to enforce such rights or any other rights.

SECTION 10. SIGNATURES

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

COLOR VIBE, LLC



DATE: 11-4-2014

COLOR VIBE, LLC

1300 N. 200 E., SUITE 114E, LOGAN UT

VILLAGE OF LAKE ZURICH



DATE: 11-4-2014

VILLAGE OF LAKE ZURICH

200 SOUTH RAND ROAD

LAKE ZURICH, IL 60047