

# Road Pony Service Agreement

YOU ARE A VALUED CUSTOMER OF ROAD PONY LLC, AND WE WANT YOU TO HAVE AN UNFORGETTABLE TIME ON OUR BUS. WE JUST WANT TO ENSURE THAT THE INTEGRITY OF OUR BUS IS MAINTAINED FOR FUTURE BUSINESS.

This Road Pony Service Agreement is entered into by and between Road Pony, LLC , a Missouri Limited Liability Company (“**Provider**”) and the entity or person agreeing to these terms (“**Customer**”). By signing this Agreement you are certifying that you are at least eighteen (18) years of age and have the capacity to enter into this Agreement. If you are signing this Agreement on behalf of your employer or another entity, you represent that: (i) you have full legal authority to bind your employer; (ii) you have read and understand this Agreement; and (iii) you agree, on behalf of the party that you represent, to this Agreement. This Agreement governs Customer’s access to and use of the Services.

## 1. Services

- .1 **Generally.** Provider will provide Customer with a driver and vehicle of like capacity and furnishing as the Provider bus featured at <http://www.hlmediaworks.com/STLRoadPony/#>, or other such URL as may be provided by Provider, on the date and for the duration of time as specified on the Provider Invoice.
- .2 **Modifications.** Provider, in its sole and absolute discretion, may permit modifications as to event dates and times at the request of Customer. Modifications may be subject to additional charges. In the event a modification is subject to additional charges, Customer hereby agrees to and authorizes Customer’s credit card to be charged for the amount of the additional charges.

## 2. Payments

- .1 **Generally.** Payment must be received in full prior to Provider providing Services to Customer. If payment is not received in full, Provider will not render the Services to Customer. Customer must provide Provider with a valid credit card regardless of payment method.
- .2 **Payment by Credit Card or Check.** Payment by check or credit card must be received at least two (2) weeks prior to the scheduled Service start time. If payment is not made at least two weeks in advance of the Service start time, payment must be made in cash prior to the commencement of the Services.
- .3 **Processing Fee.** All credit card transactions will be charged a five (5) dollar processing fee.

## 3. Reservations

- 3.1 **Generally.** The Services are not considered reserved for Customer, and Provider shall have no obligation to Customer, until  
Provider receives the completed Provider Invoice and the Deposit is paid.
- 3.2 **Reservation Deposit.** Customer must pay to Provider a one hundred (100) dollar non-refundable reservation deposit.
- 3.3 **Cancellations.** Reservations are cancelled by notifying Provider at least four (4) weeks prior to the date on which the Services are to be rendered. Should Customer cancel reservations in violation of this Provision, Customer will incur a cancellation charge equal to the balance of the reserved Services. Customer hereby agrees to and authorizes Customer’s credit card to be charged for the amount of the cancellation fee.

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## 4. Guests

- 4.1 **Generally.** For purposes of this Agreement, the term “Guest” shall refer to all persons present on the bus excluding the staff, agents and contractors of Provider, collectively (“**Provider Personnel**”). Provider authorizes Customer to have at any given time up to, but no more than, the total number of guests listed on the Provider Invoice.
- 2 **Acts of Guests.** Customer hereby assumes full liability for the acts of Guests. Customer agrees to and authorizes Customer’s credit card to be charged for the amount of any and all expenses incurred by Provider due to any act or acts of any Guest. Where Provider uses its own personnel to effect any cleaning or repair under this Provision, Customer agrees that the time expended by Provider Personnel shall be charged hourly at a rate of thirty (30) dollars per hour.
- 3 **Prohibited Acts.** For purposes of this Agreement, Prohibited Act shall include the following:
- .3.1 Smoking in the bus (**see Provision 4.6**);
  - .3.2 Sale or use of illegal drugs in the bus;
  - .3.3 Possession or consumption of alcoholic beverages by minors;
  - .3.4 Affixing or attaching anything to the interior or exterior of the vehicle without obtaining prior written consent from Provider;
  - .3.5 Extending any device or part of the body outside the bus;
  - .3.6 Carrying firearms, fireworks or non-consumable combustible onto the bus;
  - .3.7 Any wrestling or mosh pit style dancing; and
  - .3.8 Any act or behavior that Provider, in its discretion, considers to be potentially injurious to any person or property.
- 4 **Bodily Fluids and Excrement.** In the event that any Guest should secrete, expel or otherwise release any bodily fluid or excrement in or on any part of the vehicle, Customer shall incur an automatic charge of two hundred and fifty (250) dollars. Customer agrees to and authorizes Customer’s credit card to be charged for the entire two hundred and fifty dollars.
- 5 **Property of Guests.** Customer hereby agrees and affirms that Provider is not responsible for the safe keeping or security of any property of any Guest. Customer will indemnify, defend and hold harmless Provider from and against all liabilities, damages and costs (including settlement costs and reasonable attorney's fees) arising out of a third party claim regarding (i) Provider's treatment of the personal effects, items or property of Customer or Customer's guests; (ii) any alleged failure on Provider's part to keep safe the personal effects, items or property of Customer or Customer's guests.
- 6 **Special Provision Covering Acts of Smoking and Evidence of Acts of Smoking.** In the event that any Guest shall commit an act of smoking inside the bus, Customer will be charged one hundred (100) dollars **per violation**. Where Provider becomes aware of multiple acts of smoking, Provider reserves the right to take action in accord with Provisions 4.7(a)-(c) of this Section. In the event that Provider encounters evidence of acts of smoking, Provider will charge Customer a one hundred (100) dollar fine and exercise its rights under Provision 4.2. Customer agrees to and authorizes Customer’s credit card to be charged for any charge arising out of any violation of this Provision. For purposes of this Agreement, acts of smoking **will be inferred** from evidence of the following:
- .6.1 Cigarette butts found inside the vehicle;
  - .6.2 Cigarette ash found inside the vehicle;
  - .6.3 Any part of or any debris from any smokeable substance found inside the vehicle;
  - .6.4 Any part of or any debris from any device used to smoke any substance;
  - .6.5 Any evidence of burns to vehicle furnishings or materials; and
  - .6.6 Any event or evidence that could lead Provider, in its sole discretion, to infer an act of smoking has occurred inside the bus.
- 7 **Remedy for Violation.** In the event that any Guest violates any Provision under this Section, Provider reserves the right, in its sole and absolute discretion, to (a) to immediately terminate, without refund, the Services to Customer; (b) charge Customer additional sums; or (c) take no action at all. Provider

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has sole and absolute discretion as to choice of remedy pursuant to violation under this Section. Nothing in this Provision or this Section shall be construed so as to limit any of Provider's remedies at law or equity. Nothing in any Provision under Section 4 of this Agreement shall be construed to limit Provider's rights pursuant to other terms in this Agreement.

## 5. Additional Miscellaneous Provisions

- .1 **Assignment.** Customer may not assign this Agreement or any of Customer's respective rights, interests, duties or obligations hereunder without the prior written consent of Provider. Provider reserves the right to assign this Agreement and any of its rights interest, duties or obligations hereunder.
- .2 **Information Provided by Customer.** Customer hereby affirms that all information provided by Customer to Provider is truthful and accurate. Customer agrees that Provider will not be liable for any act or omission caused by or based upon inaccurate or misrepresented information.
- .3 **Severability.** If any provision of this Agreement is found unenforceable, it and any related provisions will be interpreted to best accomplish the unenforceable provision's essential purpose.
- .4 **Equitable Relief.** Nothing in this Agreement will limit either party's ability to seek equitable relief.
- .5 **Third Party Beneficiaries.** There are no third-party beneficiaries to this Agreement.
- .6 **No Waiver.** Failure of Provider to enforce any provision of this Agreement will not constitute an actual or constructive waiver of Provider's rights under said Provisions.
- .7 **Governing Law.** The parties to this Agreement hereby agree and affirm that the rights and obligations of the parties to this Agreement shall be interpreted, construed and enforced in accord with the laws of the State of Missouri. Customer irrevocably consents to the jurisdiction of the state and federal courts of the State of Missouri and in any dispute arising out of this Agreement or Provider's provision of the Services to Customer, Customer agrees to waive the defense that such courts lack personal jurisdiction over Customer. Customer further consents to St. Louis County, Missouri as the exclusive venue for all matters arising out of this Agreement.
- .8 **Counterparts; Facsimile.** The terms of this Agreement may be executed as separate counterparts, each of which shall be deemed an original and both of which shall together constitute one and the same instrument. For the purposes of this Agreement, facsimile signatures shall be treated as original signatures.
- .9 **Entire Agreement.** This Agreement together with the Provider Invoice, constitute the parties' entire agreement and this Agreement supercedes any prior or contemporaneous agreements.
- .10 **Allocation of Risk.** The time of pickup, arrival at given destinations or adherence to specific itinerary schedules cannot be guaranteed. Unusual road, traffic, and weather conditions are beyond the control of Provider, and delays caused by such conditions will not be grounds for Provider liability under this Agreement. Provider shall not be liable for delay or non-performance resulting from mechanical failure, road or weather conditions, labor difficulties or circumstances beyond its control.
- .11 **Indemnification.** Customer agrees to indemnify, defend, and hold harmless Service Provider from and against all liabilities, damages, and costs (including settlement costs and reasonable attorneys' fees) arising out of any third party claims ("third party" as used here specifically includes Guests): (i) regarding any third party personal injury whether or not such injury is due to the negligence of Service Provider; (ii) regarding any damage to property caused by Customer or Guest.
- .12 **Collection Efforts.** Should Provider incur any expense in collecting or attempting to collect from Customer any sum provided for in this Agreement, Customer agrees to be liable for the entire amount of such expense, including but not limited to attorneys fees, court costs, and collection agency fees.

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- .13 **Disclaimers.** EXCEPT AS EXPRESSLY PROVIDED FOR HEREIN, NEITHER PARTY MAKES ANY OTHER WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT.
- .14 **Limitation of Liability.** CUSTOMER AGREES THAT PROVIDER SHALL NOT BE LIABLE TO CUSTOMER FOR SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, AND CUSTOMER HEREBY DISCLAIMS SUCH DAMAGES TO THE FULL EXTENT SUCH MAY BE DISCLAIMED, EVEN IF PROVIDER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, EXCEPT IN THE CASE OF GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF PROVIDER. IN NO EVENT SHALL PROVIDER BE LIABLE FOR ANY LOSS IN EXCESS OF THE PRICE PAID FOR THE SERVICES FOR ANY REASON WHATSOEVER. ANY AND ALL COMPLAINTS MUST BE SUBMITTED IN WRITING WITHIN FIVE (5) CALENDAR DAYS AFTER THE DATE OF THE EVENT.