

HIMSS23 AGREEMENT

General Terms and Conditions

1. **DEFINITIONS:**

- a. "Agreement" shall mean the entire Agreement, including the cover page(s) and engagement/order details and these General Terms and Conditions as well as, to the extent applicable, the Attachment(s) and Event Service Manual.
- b. "Attachment(s)" shall mean the supplemental, specific terms set out in the attachments hereto.
- c. "Company" or "Sponsor" or "Exhibitor" shall mean the organization that signs this Agreement and is identified on page 1.
- d. "Digital Platform" means any digital platform that may be utilized by HIMSS in connection with the Event.
- e. "Event" or "Global Conference" shall mean the HIMSS 2023 Global Conference & Exhibition event.
- f. "Event Service Manual" is located on the HIMSS conference website at <https://www.himss.org/global-conference/h23-service-manual> the content of which is fully incorporated by reference herein.
- g. "HIMSS" shall mean the Healthcare Information and Management Systems Society, an Illinois not-for-profit corporation, with its principal office at 350 North Orleans Street, Suite S10000, Chicago, Illinois 60654.
- h. "Venue" shall mean the physical location (or locations) for any portion of the Event, or the Digital Platform, as applicable.

2. **AMENDMENTS:** Any and all amendments to this Agreement must be in writing, signed by both parties.

3. **CONFIDENTIALITY:** During the term of this Agreement and for a period of three (3) years thereafter, Company agrees to keep confidential the terms of this Agreement and any confidential or proprietary information provided in connection with this Agreement ("Confidential Information"). Confidential Information does not include information which is: (i) previously known without any obligation to keep such information confidential; (ii) acquired by you from a source which is not, to Company's knowledge, under an obligation to keep such information confidential; (iii) publicly known or otherwise publicly available, except through a breach of this Agreement; or (iv) independently developed by you without reference to any Confidential Information.

4. **COUNTERPARTS:** This Agreement may be executed in one or more counterparts, each of which shall be considered an original, and all of which shall be considered one and the same instrument.

5. **DISPUTE RESOLUTION, ARBITRATION, AND WAIVER OF CLASS AND OTHER REPRESENTATIVE ACTIONS:** Any and all disputes, controversies or claims, whether in contract, tort, statute or otherwise, arising out of or related to this Agreement shall be fully and exclusively resolved and settled through final and binding arbitration conducted under the Rules of Arbitration of the International Chamber of Commerce (as those rules existed on July 1, 2020) ("Rules") by one arbitrator appointed in accordance with said Rules. The Rules shall govern the costs, fees, and expenses of arbitration. No party, however, shall be responsible for the attorneys' fees and related expenses of any other party. The arbitrator shall have exclusive authority to resolve questions of arbitrability, including arising out of or related to the interpretation, scope, applicability, enforceability, formation or termination of this Agreement (or any part thereof) as well as the arbitrator's jurisdiction. The language of the arbitration shall be English. The place of arbitration shall be Chicago, Illinois. Except as may be required by law, neither a party nor an arbitrator may disclose the existence, content or results of any arbitration hereunder without the prior written consent of both parties. This Agreement evidences a transaction in interstate commerce, and the Federal Arbitration Act, 9 U.S.C. § 1, et seq., governs the interpretation and enforcement of this provision.

Further, the parties agree that any dispute resolution proceedings will be conducted ONLY ON AN INDIVIDUAL BASIS AND NOT IN A CLASS, CONSOLIDATED, OR REPRESENTATIVE ACTION. Unless both parties agree otherwise, the arbitrator may not consolidate, combine or jointly arbitrate Company's and another person's claim and may not otherwise preside over any form of a class or representative proceeding.

BY AGREEING TO THE FOREGOING PROVISIONS, THE PARTIES UNDERSTAND THAT THEY ARE WAIVING ANY RIGHT TO SUE IN COURT AND HAVE A JURY TRIAL AS WELL AS ANY RIGHT TO PARTICIPATE IN A CLASS ACTION PROCEEDING OR IN A REPRESENTATIVE ACTION.

6. **ENTIRE AGREEMENT:** This Agreement, together with all Attachments set forth herein and the Event Service Manual (as applicable), constitutes the final, complete, and exclusive understanding between the parties with respect to its subject matter and supersedes all prior or contemporaneous agreements in regard thereto. The parties have not relied upon any promises, warranties, or undertakings other than those expressly set forth in this Agreement. Nothing in this Agreement shall give any person, other than the parties to this Agreement or their respective successors or permitted assigns, any legal or equitable right, remedy, or claim under this Agreement except that the parties may enforce their rights thereunder. Notwithstanding anything to the contrary herein, in the event of a conflict or inconsistency between these General Terms, any Specific Terms, and/or the Event Service Manual, the order of priority shall be: 1) Event Service Manual, 2) Specific Terms, and 3) General Terms. Headings have been inserted for the convenience of reference only, and if there is any conflict or inconsistency between any such headings and the text of this Agreement, the text shall control.

7. **GOVERNING LAW AND VENUE:** This Agreement is made in the State of Illinois and shall be governed exclusively by the substantive laws of Illinois without giving effect to any conflict-of-laws rules. For any and all court proceedings, if any, arising out of or relating to this Agreement, and not waived by and subject to the Dispute Resolution and Arbitration provision herein, the parties knowingly and voluntarily consent to the jurisdiction and venue of the federal court for the Northern District of Illinois in the State of Illinois, Cook County.

8. **INDEMNIFICATION:** Company shall defend, indemnify, and hold HIMSS and its officers, directors, employees and agents (hereinafter collectively called "Indemnitees") forever harmless from any losses, costs, damages, liabilities, claims, demands, expenses (including attorney's fees), or actions arising out of or in connection with the actions (or inactions) of Company in connection with: (a) any claims for violation of any statute, law, ordinance, regulation, rule, or order; and (b) any claims arising from the alleged gross

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- negligence, recklessness, or willful or knowing conduct or misconduct of Company; and (c) Company's breach of the Confidentiality and Representations, Warranties, and Covenants sections of this Agreement.
9. **LIMITATION OF LIABILITY:** IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES IN ANY ACTION ARISING FROM OR RELATED TO THIS AGREEMENT, WHETHER BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), INTENDED CONDUCT OR OTHERWISE, INCLUDING WITHOUT LIMITATION, DAMAGES RELATING TO THE LOSS OF PROFITS, INCOME OR GOODWILL, REGARDLESS OF WHETHER SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN ADDITION, IN NO EVENT SHALL HIMSS BE LIABLE FOR DAMAGES IN EXCESS OF THE FEES DUE TO HIMSS UNDER THIS AGREEMENT. NOTWITHSTANDING THE FOREGOING, THE LIMITATIONS OF LIABILITY SET FORTH IN THIS SECTION SHALL NOT APPLY IN CONNECTION WITH AMOUNTS PAYABLE PURSUANT TO THE INDEMNIFICATION OBLIGATIONS HEREIN.
 10. **NO ASSIGNMENT OR TRANSFER:** The Agreement may not be assigned to another entity without prior written consent from HIMSS.
 11. **NO WAIVER:** The failure of either party to object to or to take affirmative action with respect to any conduct of the other party which is in violation of the terms hereof shall not be construed as a waiver thereof, nor of any subsequent breach or wrongful conduct. The rights and remedies set forth herein are intended to be cumulative, and the exercise or non-exercise of any right or remedy by either party shall not preclude or waive its exercise of any other right or remedy hereunder or pursuant to law or equity. Any waiver of rights or remedies must be made in writing signed by authorized representatives of both parties and specifically referring to this agreement.
 12. **PRIVACY POLICY AND DATA MANAGEMENT:** HIMSS takes our data stewardship responsibility seriously; more information about our data management and privacy practices is available in our privacy policy at www.himss.org/himss-legal
 13. **RELATIONSHIP OF THE PARTIES:** The parties agree that their relationship is solely as independent contractors and nothing herein shall be construed to entitle either Party to be a representative, agent, partner, employee/employer, or joint venturer of the other.
 14. **REPRESENTATIONS, WARRANTIES, AND COVENANTS:**
 - a. Company represents, warrants, and covenants that:
 - i. It has all necessary permissions, permits, licenses, and clearances to perform its obligations under this Agreement;
 - ii. That it will comply with all applicable laws, statutes, regulations, and codes including, but not limited to, those relating to anti-bribery and anti-corruption;
 - iii. In connection with its exercise of its rights, or performance of its obligations, under this Agreement, that it shall not infringe any third party copyright, trademark, or other similar intellectual property or proprietary rights and that it shall comply with all copyright restrictions; and
 - iv. It shall obtain any required license or grant of authority required of Company under the copyright laws and, upon request from HIMSS, shall present HIMSS with a copy of such license or grant.
 - b. EXCEPT AS EXPRESSLY SET FORTH HEREIN, EACH PARTY ACKNOWLEDGES AND AGREES THAT THE OTHER HAS NOT MADE ANY EXPRESS OR IMPLIED REPRESENTATIONS, WARRANTIES OR AGREEMENTS OF ANY KIND RELATED TO THE SUBJECT MATTER HEREOF, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
 15. **SEVERABILITY:** If any portion, section, or provision of this Agreement as applied to either party or to any circumstances shall be deemed to be void or unenforceable, the same shall in no way affect any other portion, section, or provision of this Agreement or the validity or enforceability of this Agreement. In the event any restriction set forth in this Agreement is determined to be unreasonable or unenforceable with respect to scope, time, geographical or customer coverage, Company agrees that such a restriction or restriction may be modified and narrowed, either by an arbitrator or by HIMSS, so as to provide the maximum legally enforceable protection of HIMSS' interests and without negating or impairing any other restrictions or agreements set forth herein.
 16. **SURVIVAL:** The following provisions shall survive the termination or expiration of this Agreement and shall remain in full force and effect (in addition to any other provisions that are reasonably expected to survive the termination or expiration of this Agreement): Dispute Resolution, Arbitration, and Waiver of Class and Other Representative Actions; Governing Law and Venue; Indemnification; Representations, Warranties, and Covenants; and Severability.
 17. **PAYMENT TERMS:** All fees due under this Agreement must be paid within 30 days of the invoice date or pursuant to the timeline and/or payment schedule set forth on the cover page(s) of this Agreement. If fees are not paid when due, a late payment penalty 1.5% per month or the greatest amount allowed by applicable law (whichever is less) will be applied in addition to any unpaid balance. HIMSS may refer collection of any unpaid fees to an attorney or collections agency and Company shall pay all reasonable attorney's fees and third party collections costs HIMSS incurs in collecting such amounts. Any purchase orders or similar documentation issued by Company ("PO") containing preprinted terms shall not add to, amend, modify or supersede the terms of this Agreement in any way whatsoever, notwithstanding any provisions of a PO to the contrary.

Specific Terms – Global Conference Exhibitors and Sponsors HIMSS23

The following terms apply to both Exhibitors and Sponsors:

1. **APPLICABILITY – SPECIFIC TERMS – GLOBAL CONFERENCE EXHIBITORS AND SPONSORS HIMSS23:** For the purpose of clarification, these Specific Terms – Global Conference Exhibitors and Sponsors HIMSS23 terms shall apply to all of Company's purchases for sponsorship space or events, booth space or other physical on-site exhibition or engagement at the Event.
2. **ACCESS TO EVENT:** Each individual representative of Company is required to wear an Event badge for entry into the Event. Company's allocated Event badges are not transferable. Event staff will confiscate Company's Event badges that are worn by another individual other than the person to whom the Event badge is issued. HIMSS reserves the right to withhold delivery of its obligations under this Agreement, including, without limitation, to refuse Company's exhibit freight, withdraw Company's Event badge allotment, and withhold contracted space and/or exhibit space materials if Company violates this rule.

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3. **ACCESS TO THE DIGITAL PLATFORM:** Login credentials will be provided to all registered attendees, including Company and Company's representatives. Company understands and agrees that login credentials are specific to each attendee, may not be shared and are not transferrable. Any sharing of login credentials may result in loss of access to the Digital Platform for Company and its representatives. Company may not utilize any attendee information visible via the Digital Platform to contact attendees in an inappropriate manner or to send spam communications. Furthermore, HIMSS reserves the right, without refund, to revoke the login credentials of any participants whose conduct is deemed inappropriate, disorderly, or offensive by HIMSS and to remove Company from the Digital Platform.
4. **APPLICABILITY OF DISCOUNTS:** Companies that receive discounts for Corporate Membership or Organizational Affiliate status must remain in good standing with such status, as applicable, through the duration of the Event. Failure of Company to maintain such Corporate Membership or Organizational Affiliate status in good standing will result in Company immediately forfeiting the discount for such Corporate Membership or Organizational Affiliate Status and HIMSS will invoice Company for the balance of the regular rate applicable at the time of space reservation, which shall be immediately due and payable. To qualify as a Corporate Member, the exhibiting company must be a branch or division of the Corporate Member parent company in good standing and must maintain the same tax ID number as the parent company.
5. **CANCELLATION:** Company must notify HIMSS of its intent to cancel this Agreement in writing through an authorized company representative. If Company's notice of cancellation is received on or before September 1, 2022, HIMSS will retain 50% of the total fees due under this Agreement. If Company's notice of cancellation is received on or after September 2, 2022, HIMSS will retain 100% of the total fees due under this Agreement. Upon Company's cancellation of this Agreement, HIMSS reserves the right to withhold delivery of its obligations under Company's Event-related agreements, including, without limitation: (1) to cancel Company's ordered advertisements; and/or (2) to cancel all other sponsorship opportunity agreements entered into by Company related to the Event.
6. **COMPLIANCE WITH EVENT RULES:** Company expressly agrees to comply with the Event Service Manual (including, but not limited to, the rules and regulations therein) and all directions from Event staff. Company is wholly liable for all damage caused, whether directly by Company or by Company's agents, to building floors, walls, or columns, standard booth equipment, or to other sponsors' property. Company may not mark, tack, make holes, apply paint, lacquer, adhesives or other coating to building columns, walls, ceilings, floors or to standard booth equipment. Company will be wholly responsible for labor charges incurred in connection with the assembly, draping, repairs, and dismantling of contracted exhibit booth(s). All construction material must conform to standard safety practices. All display materials, including table, drape, textile, paper displays, and decorations, must be fire resistant or flame proof. Combustible decorations are prohibited at all times. Company must remove all packaging containers and materials from the Event exhibition hall and/or other contracted space and these items may not be stored under tables or behind displays. Company must maintain all aisles, corridors, exit areas, and stairways in and around Company's contracted space at their required width at all times during the Event. Obstructions protruding into the aisles of the exhibition or in other areas of contracted space are prohibited. Photography or videography of another company's exhibit is strictly prohibited. Company acknowledges and agrees that Company is charged with knowledge of all applicable laws, ordinances, and regulations pertaining to health, fire prevention, and public safety while participating in the Event. Compliance with all such laws, ordinances, and regulations is mandatory and is the sole responsibility of Company. Company must comply with all conditions, rules, and regulations imposed by the Venue and its management. The violation of any of the foregoing is grounds for dismissal from the Event exhibition hall and/or the Event with forfeiture of all associated monies. Additionally, Company must register Company attendees for the Event and all Company attendees must comply with these terms as well as the individual attendee registration terms and conditions associated with the Event.
7. **COMPANY CONDUCT:** Company is expected to behave responsibly and to treat all attendees - and treat the community - with respect, kindness, and compassion. HIMSS reserves the right, without refund, to revoke the credentials of participants whose conduct is deemed inappropriate, disorderly, or offensive by HIMSS, Venue, or local or federal authorities. Company is permitted to conduct business at the Event only as set forth in this Agreement and the Sponsorship Benefits or Exhibit Benefits details. Only authorized representatives of Company are permitted to: (i) display or demonstrate any products, processes, or services, or to fulfill orders; (ii) to wear identification of Company's company or organization; or (iii) to distribute advertising or other materials within the applicable sponsorship or exhibit space. Company must show goods or services manufactured or dealt in by Company in the regular course of business. Should an article of a non-exhibiting company be required for operation or demonstration in a Company's display, identification of such article shall be limited to the usual and regular nameplates imprint, or trademark under which same is sold in the general course of business. Marketing material of any description may be used or distributed only within the space assigned to the Company presenting such material. Only media and literature published and approved by HIMSS may be distributed at the registration desk, in the registration area, in the meeting rooms, in the exposition areas, in public areas, in hotels within the HIMSS housing block or in transportation areas under lease to HIMSS. No photography or videography is allowed by any photographer other than the designated Event photographer of HIMSS without prior written approval from HIMSS. Company may not enter the sponsorship space or exhibit space of other companies without invitation; nor may Company call or invite a visitor out of one exhibit and into its own. The following are prohibited: the use of noisemakers, or promotions and presentations that may be judged by HIMSS, in its sole and exclusive discretion, as not in good taste, lacking in dignity, or not in keeping with the purpose of HIMSS. Company use of audio and visual equipment will be permitted, where appropriate to the display; however, sound must be maintained at not more than a level of 75 decibels. HIMSS reserves the right to restrict Company's use of sound and other devices that exceed 75 decibels or interfere with the best interests of the exhibition as a whole. The violation of any of these rules is grounds for downward adjustment or loss of Company's exhibitor points, and/or dismissal from the Event exhibition hall and/or the Event entirely, with forfeiture of all associated monies.

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8. **FORCE MAJEURE:** In the event that performance by HIMSS or any necessary third party is unavailable in whole or in part as a result of any cause or agency over which HIMSS has no control, including but not limited to, fire, flood, tempest, inclement weather, formal or informal governmental intervention, malicious damage, act of God, war, strike, lock-out, labor dispute, riot, terrorist acts, curtailment of transportation, pandemic, epidemic or contagious disease, or should HIMSS decide that because of any such cause that it is necessary to cancel or postpone any of the services or deliverables contemplated by this Agreement (including, but not limited to, a decision to re-site any event or program, or reduce the move-in and installation time, exhibition time, or move-out time associated therewith), HIMSS shall be excused from any failure to perform under this Agreement. Notwithstanding the foregoing, if HIMSS cancels or postpones the Event (as defined in these Specific Terms - Global Conference Exhibitors and Sponsors HIMSS23) pursuant to this provision, HIMSS will permit Company to apply fifty percent (50%) of the total fees paid in connection with the Event to a subsequent HIMSS event occurring within fourteen (14) months of the date of the Event, subject to this Agreement, as mutually agreed upon by the parties. Such application of funds shall be Company's sole remedy in the event of cancellation or postponement of the Event, and HIMSS shall not be liable to indemnify or reimburse or to otherwise refund Company in respect of any fees, deposits, payments, costs, expenses, damages or losses of any kind, whether direct or indirect, arising as a result thereof.
9. **INSURANCE:** All property of the Company is understood to remain under its custody and control in transit to and from and/or within the confines of the Venue. HIMSS and Venue do not maintain insurance covering Company's property and will not be responsible for damage to, loss, or theft of property belonging to Company, its servants, directors, officers, employees, contractors, agents, business invitees, visitors or guests. Company shall carry Comprehensive General Liability coverage, including bodily injury, fire legal liability, personal and advertising liability, products and completed operations, and contractual liability coverage of at least \$1 Million per occurrence/\$2 Million General Aggregate and \$1 Million per Occurrence for Property Damage Liability. Further, Company shall carry statutory Worker's Compensation coverage in full compliance with all federal and state laws covering all of the Company's employees with Employers Liability (Coverage B) limits of not less than \$500,000/\$500,000/\$500,000. Workers Compensation must include a waiver of rights to recover against additional insureds listed on the Certificate of Insurance. Company shall carry automobile liability insurance that includes all owned, non-owned, and hired vehicles with limits of \$1 Million per accident. Each of Company's policies listed herein must include HIMSS and its subsidiaries, affiliates, officers, directors, and employees as additional insureds under ISO form CG2026. Certificates and endorsements must state that the General Liability Insurance is primary and will not seek contribution from any insurance available to the additional insureds. Company must provide a Certificate of Insurance to HIMSS documenting fulfillment of these requirements upon full execution of this Agreement.
10. **OFFICIAL HOUSING:** Companies are required to utilize the official HIMSS Event housing bureau, onPeak, for all housing accommodations associated with the Event. HIMSS reserves the right to withhold delivery of its obligations under this Agreement, including, without limitation, to refuse Company's exhibit freight, withdraw Company's Event badge allotment, and withhold contracted space and/or exhibit space materials if Company violates this provision.
11. **PUBLICITY:** Company acknowledges and agrees that HIMSS may publicly refer to Company as a "Sponsor" and/or "Exhibitor" of HIMSS and, in connection with such public reference, may use Company's name, brand, and related marks in any media and on any platform. Company further acknowledges and agrees that while acting as a Sponsor and/or Exhibitor, it shall not infringe any third-party copyright, trademark, or other similar intellectual property right and shall comply with all laws related thereto. This right of publicity exists for all Sponsor Programming and for the Event (as defined in the Agreement).
12. **PAYMENT TERMS:** In addition to the payment terms set forth in the General Terms and Conditions of the Agreement, HIMSS reserves the right, in its sole and exclusive discretion, to release and reassign exhibit space opportunities, including contracted space and/or exhibit space, in the event that Company fails to remit any fees according to the payment schedule. Further, HIMSS reserves the right to withhold delivery of its obligations under this Agreement, including, without limitation, to refuse Company's exhibit freight and/or sponsorship freight, withdraw Company's Event badge allotment, or withhold contracted space and/or exhibit space materials and/or sponsorship benefits until Company remits all fees according to the payment schedule. Company's failure to remit any fees according to the payment schedule and/or prior to the start of the Event may result in Company's forfeiture of all fees previously paid to HIMSS for or in connection with the Event.

The following terms apply only to Exhibitors:

1. **SPACE REDUCTIONS:** HIMSS may, in its sole discretion, grant Company requests to reduce or adjust the size of contracted space; HIMSS is not required to make any such adjustments at any time. In the event HIMSS grants Company's request to reduce contracted space size, HIMSS may also relocate Company's contracted space. Additionally, HIMSS will also proportionately reduce the following: 1) Company's exhibitor points, 2) Company's hotel sleeping room blocks, and 3) Company's Event badge allotment, where applicable. In the event HIMSS grants a request to reduce contracted space size, Company will be obligated to pay 50% of total fees for released space when HIMSS receives such request on or before September 1, 2022; or 100% of total fees for released space when HIMSS receives such request on or after September 2, 2022.
2. **SPECIAL PARTICIPATION RULES:** Where applicable for Specialty Booths of the Event, Company must adhere to all posted participation requirements outlined in the HIMSS Event Service Manual. For session and exhibition demonstrations, Company agrees to ensure the timely arrival of its designated speaker(s), and to take direction from Event technical project management and Event staff as necessary in order to successfully execute the session and exhibition demonstration. Company's failure to ensure timely arrival of its speaker(s) and/or, in the reasonable judgment of HIMSS, to promptly correct violations or to comply with directives from HIMSS or other designees of HIMSS (such as, but not limited to, technical management and Event staff), will result in HIMSS excluding Company from further participation in the testing and/or demonstration process, including demonstration at future HIMSS.
3. **SUBLETTING AND TRANSFERS:** Company may not assign, sublet, or share its contracted space with another business or firm

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without prior written approval from HIMSS, which may be granted in HIMSS' sole discretion. In the event that HIMSS grants Company's request to transfer its contracted space, in whole or in part, to another company, Company shall be subject to the space reduction (see "Space Reductions") and/or cancellation policies (see "Cancellations").

- 4. COMPANY ELIGIBILITY:** The Event exhibition is intended to demonstrate products and services for healthcare information and/or technology professionals. HIMSS, in its sole and exclusive discretion, shall determine Company's eligibility to participate in the Event, and the suitability of Company's products and services for the objectives of the Event (e.g. skincare products and cosmetic dermal fillers are not permitted). HIMSS may refuse rental of exhibit space to Company, or remove Company from the Event exhibition hall, if, in the sole and exclusive discretion of HIMSS, Company's display of goods or services is not compatible with the character and objectives of the Event exhibition. In the event HIMSS initially deems Company to be eligible to participate in the Event, but later determines that it is not eligible, then Company's prepaid space rental fees and deposits will be forfeited, in accordance with the "Cancellations" provision.