[DMC’s LETTERHEAD]

[DATE]

[METHOD OF DELIVERY]

[CLIENT’S NAME]

[CLIENT’S ADDRESS]

[Attn: [NAME OF INDIVIDUAL CONTACT PERSON]]

Re: Letter of Intent for Retention of Event Planning Services

Dear [NAME]:

This letter of intent (“**LOI**”) sets out the principal terms of [CLIENT’S NAME] (“**Client**”) intent to retain the Services (as defined in Section 2) from [DMC’S NAME] (“**DMC**”). The possible retention of Services is referred to as the “**Transaction**” and Client and DMC are referred to collectively as the “**Parties**” and each, individually, as a “**Party**”.

‌ ‌

|  |
| --- |
| **Drafting Note: Opening Paragraph**  The opening paragraph of a letter of intent describes the letter’s purpose, introduces the parties, and briefly describes the proposed transaction. In this letter, the contemplated transaction is the purchase of services by the client from the DMC. |

‌ ‌

1.  Non-Binding. Except for the provisions of Section 4, Section 5, Section 6, and Section 7 and the requirement of this Section regarding entry into negotiations and fees associated therewith, this LOI is not binding on the Parties; it is only an expression of basic terms and conditions that the Parties presently intend to incorporate in a formal written agreement that will govern the Transaction (“**Event Service Agreement**”). No binding agreement, with exception of those provisions stated herein, shall exist with respect to the Transaction unless and until the Event Service Agreement has been duly executed by both Parties. As soon as practicable following the acceptance and approval of this LOI by the Client, the Parties shall enter into negotiations with the objective of executing the Event Service Agreement. DMC shall prepare the initial draft of the Event Service Agreement.

Prior to the Parties executing the Event Service Agreement, Client understands that DMC will utilize its knowledge, experience, resources, network, relationships, design, consultative skills, and planning capabilities to timely prepare the Client’s event. As a result, Client agrees to pay DMC a non-refundable fee (which will be reflected as a non-refundable credit in the Event Service Agreement) in the amount of [$DOLLAR AMOUNT].

‌ ‌

|  |
| --- |
| **Drafting Note: Non-Binding**    Although letters of intent are typically non-binding, they usually contain some binding provisions. *Usually*, provisions regarding the business terms of the deal (for example, price, quantities, description of services) are non-binding and subject to continued negotiations. Binding provisions are usually limited to those that a party thinks necessary during the negotiation period. Common binding provisions include:   1. Governing law. 2. Confidentiality. 3. No third-party beneficiaries. 4. Expenses.   In some rare cases, *such as here*, the parties may make other relevant portions of the letter binding. If the party that wants a binding letter of intent has more bargaining power, the other party can agree to be bound if it is highly motivated to complete the deal. Parties must ensure that the letter of intent properly reflects their intentions. If the letter includes provisions that are intended to be binding, these must be clearly identified and the legal requirements for creation of a valid contract must be satisfied (for example, the terms must be sufficiently certain and there must be consideration). This letter of intent specifically identifies those sections that are meant to be binding by excluding them from the other provisions of the letter that are deemed non-binding.  Section 1 requires the parties to enter into negotiations toward an Event Service Agreement. If the client or DMC have particular concerns about the timeliness of completing the event service agreement, it may be appropriate to set a deadline by which the agreement should be finalized (e.g., 30 days from the signing of the letter of intent).  Even if a letter of intent is non-binding, parties may be obligated to negotiate in good faith. Courts are split on whether letters of intent or term sheets create a duty to negotiate in good faith. Courts often consider whether:   1. The circumstances indicate that the parties intended to be committed to negotiate in good faith. 2. There is sufficient consideration for the alleged commitment to negotiate in good faith. 3. The parties’ actions demonstrate a reasonable reliance on the intentions of the parties to negotiate in good faith. |

‌ ‌

2.  Supply of Services. It is the present intention of the Parties that, upon execution of the Event Service Agreement, Client would retain and DMC would provide the services set out in the attached **Exhibit A** (“**Services**”), at the price and in the quantities set out therein. The Event Service Agreement shall contain such covenants, conditions, indemnities, representations, and warranties as the Parties shall mutually agree.

‌ ‌

‌

|  |
| --- |
| **Drafting Note: Purchase and Sale/Supply of Services**    Section 2 provides for the agreed business terms of the transaction to be set out in an exhibit. This should include, at a minimum, to the extent agreed:   1. Prices. 2. Quantities or volume. 3. Specifications. 4. Timing. 5. Any other key terms that the parties consider to be required aspects of the transaction, such as, where applicable: 6. required due diligence; 7. exclusivity; 8. confidentiality; and 9. noncompetition. |

‌ ‌

3.  Term and Termination. This LOI will automatically terminate and be of no further force and effect upon the earlier of (i) execution of the Event Service Agreement by Client and DMC, (ii) mutual agreement of Client and DMC, and (iii) [TIME] on [DATE]. Notwithstanding anything in the previous sentence, Section 1, Section 4, Section 5, and Section 6 shall survive the termination of this LOI and the termination of this LOI shall not affect any rights a Party has with respect to the breach of this LOI by the other Party prior to such termination.

‌ ‌

|  |
| --- |
| **Drafting Note: Term and Termination**    Letters of intent usually terminate after a certain period of time or on the occurrence of certain events (such as the signing of the event service agreement or on mutual agreement of the parties). The date to be included in Section 3 should provide a reasonable period of time for negotiation of the agreement and any due diligence that might be required. Section 3 also sets out those provisions that survive the termination of the letter of intent. Normally, this includes:   1. Governing law. 2. Confidentiality. 3. No third-party beneficiaries.   This provision also provides that the parties continue to have the right, following termination, to pursue any remedies for breaches that arise before termination. |

‌ ‌

4.  Governing Law. This LOI shall be governed by and construed in accordance with the internal laws of the state of [STATE], without giving effect to any choice or conflict of law provision or rule (whether of the state of [STATE] or any other jurisdiction) that would cause the application of laws of any jurisdiction other than those of the state of [STATE].

‌ ‌

|  |
| --- |
| **Drafting Note: Governing Law**    The parties should choose the law of a state that has a relationship to the parties or the proposed transaction, or there should be some other reasonable basis for the choice. The parties should also consider whether the choice of governing law for a preliminary agreement like the letter of intent sets a precedent for the choice of law for the event service agreement. |

‌ ‌

5.  Confidentiality. This LOI, the matters discussed herein and information provided by one Party to the other in connection herewith (collectively, “**Information**”) are confidential and shall not be disclosed by the receiving Party without the written consent of the other, except to the extent that disclosure is required by law. When disclosure is required, the Party making the disclosure shall provide notice of the intended disclosure to the other Party and shall take all reasonable steps to limit the extent of the disclosure to the minimum required to comply with its legal obligations.

Neither Party shall have any obligation with respect to any Information that is or becomes publicly available without fault of the Party receiving the Information.

‌ ‌

|  |
| --- |
| **Drafting Note: Confidentiality**    The parties want to ensure that the commercially sensitive information in the letter of intent remains confidential. If a separate confidentiality agreement already exists between the parties, the letter of intent should simply:   1. Acknowledge that the information is confidential. 2. Make it clear that it is subject to the terms of the existing confidentiality agreement, which will continue in full force and effect. |

 ‌ ‌

6.  No Third-Party Beneficiaries. Nothing herein is intended or shall be construed to confer upon any person or entity other than the Parties and their successors or assigns, any rights or remedies under or by reason of this LOI.

‌ ‌

|  |
| --- |
| **Drafting Note: No Third-Party Beneficiaries**    The provision of services frequently impacts the expectations of third parties, such as downstream vendors and subcontractors. The parties should include a provision such as Section 6 to:   1. Reduce the expectations of third parties who might rely on the existence of the LOI to ramp up production or allocate funds. 2. Disclaim any liability for any reliance of third parties that may be based on the expectation that the parties will enter into an event service agreement. |

 ‌ ‌

7.  Miscellaneous. Neither this LOI nor any rights or obligations hereunder may be assigned, delegated, or conveyed by either Party without the prior written consent of the other Party. This LOI may be executed in counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one agreement. The headings of the various sections of this LOI have been inserted for reference only and shall not be deemed to be a part of this LOI.

‌ ‌

|  |
| --- |
| **Drafting Note: Miscellaneous**    Letters of intent like this do not typically contain overly detailed boilerplate provisions. |

‌ ‌

If you are in agreement with the terms set forth above and wish to proceed with negotiating an Event Service Agreement for the proposed Transaction on that basis, please sign this LOI in the space provided below and return an executed copy to the attention of [NAME].

|  |  |
| --- | --- |
|  | Very truly yours,  [DMC’S NAME] |
|  | By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Name:  Title: |
| Agreed to and accepted:  [CLIENT’S NAME] |  |
| By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Name:  Title: |  |
|  | |

Exhibit A

Of

Letter of Intent