[#].Client shall defend, indemnify, and hold harmless DMC against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable attorney fees, arising out or resulting from any claim of a third party related to the potential exposure or contraction of a bacterial or viral disease (including the 2019 novel coronavirus disease) from the Event, including any claim related to Client’s own negligence or the ordinary negligence of the DMC.

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| **Drafting Note: Indemnification**  This is an indemnification provision, under which the client agrees to indemnify the DMC and any other released parties (e.g., vendors) from any losses incurred related to the disease due to the attendee participating in the event.  The DMC should carefully consider whether it wants to include this aggressive provision because it requires the client to indemnify the DMC for *any* damages incurred by the DMC related to the attendee participating in the event regardless of who is at fault, which may include damages arising from the DMC’s own negligence.  The DMC should be aware that some states may not permit indemnification for one’s own negligence and those that do may require express and clear language that this is intended. Accordingly, if the DMC intends for this section to cover the DMC’s own negligence, the language at the end of this provision should be included, as permitted by applicable state law.  Alternatively, the DMC can revise this provision to require the client to indemnify only if the DMC incurs losses resulting from the Client’s negligence or reckless behavior.  In deciding whether to include this section, the DMC should consider that the practical benefits of including an indemnification clause in this liability waiver may be limited because, for example:   1. It may be difficult to determine who owes the indemnity to the DMC for losses deriving from a third-party disease-related claim because of the difficulty of establishing the facts underlying the claim. 2. Even if the DMC succeeds on an indemnification claim, it may be unable to collect on its judgment if the client does not have enough assets to satisfy the judgment.   Therefore, the benefits of including this section may not outweigh the potential disadvantages, such as a client ultimately refusing to sign the event service agreement because of the indemnification clause. |

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