

PARKER RECREATIONAL FACILITY USE AGREEMENT

THIS AGREEMENT is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_, by and between the City of Parker, Florida, a municipal corporation ("City") and the undersigned license ("Licensee").

1. License. City hereby grants to Licensee a license to use the following facility or facilities at City of Parker Sports Complex in Bay County, Florida ("Site"), upon the terms and conditions of this Agreement, which are:

Facility/Park Requested: \_\_\_\_\_

Specific location within Facility/Park: \_\_\_\_\_

on the following dates and times \_\_\_\_\_ (collectively "Term"). In no event shall any part of the Event continue later than 9:30 p.m. at night.

2. Limited Use of Site. Licensee shall use the Site for the exclusive purpose of: \_\_\_\_\_ ("Event").

**The possession, consumption, and sale of alcoholic beverages are prohibited unless expressly such use is expressly authorized and approved in writing by the City.**

3. Fee. No later than ten (10) days before the beginning of the Event (or at City's option at such date established by the City), Licensee shall pay City the sum of \$\_\_\_\_\_, plus all applicable late fees and applicable sales and use taxes for use of the Site in accordance with the Schedule of Fees and Costs attached and incorporated as Appendix "A" attached hereto. Any fee paid is non-refundable once any part of the Event is commenced.

4. Acceptance of Site. Licensee represents and warrants that Licensee has inspected or caused to be inspected the Site, including all facilities, utilities and improvements thereon, and that they are all acceptable "as is" and appropriate for the Event. In the event of a material change in the condition of the Site adversely affecting Licensee's ability to produce the Event, Licensee's sole remedy shall be to terminate this Agreement upon written notice to the City and receive a refund of the use fee, if paid.

5. Utilities. The City shall pay the cost of utilities reasonably consumed during the Term, including water, sewer, gas and telephone that shall be reimbursed as a part of the user fee. Licensee shall pay the cost of those utilities generated or consumed on or within the Site during the Term which exceed normal operating standards, including but not limited to, electricity, gas, telephone-internet, cable television, and solid waste. Licensee shall turn off all field lighting within fifteen minutes of the completion of each portion of the Event.

6. Alterations, Additions, Improvements. No permanent alterations, additions or improvements shall be made to the Site. The City shall require the Licensee to remove any alteration, addition or improvement and restore the Site to its original condition at the Licensee's expense. Licensee need not obtain the City's consent for temporary improvements made by Licensee on the Site necessary to produce the Event, including by way of example and not limitation, portable toilets, temporary electrical cords and junction boxes, water hoses, temporary lighting, temporary fencing, equipment, generators, trailers, tents, temporary vendor facilities, trash receptacles, portable gazebos, and all other improvements of a similar nature. Licensee shall remove all such temporary improvements existing on the Site or the parking lots at the Complex at the conclusion of the Event, failing which the City or its designee may seize, impound, remove and destroy the same at Licensee's expense.

7. Repairs, Maintenance, and Cleanup. Licensee shall at Licensee's sole expense keep and maintain the Site in good repair during the Term. Licensee agrees to repair, replace or compensate the City for any excessive cleanup required or for any damage sustained to City property during the Term, as determined by the City in its sole discretion.

8. Condition and Vacation of Site. Licensee shall neither commit nor permit waste of the Site. At the termination of this Agreement by lapse of time or otherwise, Licensee shall vacate and return the Site to the City in the same or better condition as received, failing which the City or its designee may take any necessary steps to return the Site to the same or better condition as they were received by Licensee, at Licensee's expense.

9. Right of Entrance. The City shall have the right to enter the Site at all times during the Term and shall have free access at all spaces occupied by the Licensee and Licensee's employees, agents and subcontractors.

10. Tournament Vendors. The City reserves the right to approve all tournament vendors. The tournament promoter shall guarantee the spaces needed for vendors at least two weeks in advance of the Event, and no promoter shall be authorized to provide more than six vendors for an Event. Promoters shall provide vendor information to the City no later than three business days prior to the Event. No vendor shall provide temporary food or beverage service at the Complex without the prior written consent of the City Clerk.

11. Concession Stand. No person shall serve in the concession stand if they are under the age of sixteen (16). There must be adult supervision in the concession stand at all times. Notwithstanding anything to the contrary, in the event that City has initially allowed the Licensee to operate the concession stand or allowed vendors to provide temporary food or beverage services, the City reserves the right to terminate all food and beverage operations and to operate or contract with a third party the operation of the concession stand. In such event, any fees paid by Licensee for the operation of the concession stand shall be refunded on a pro rata basis.

12. Insurance and Indemnification.

- a. Licensee shall at its expense maintain in force during the Term a comprehensive public liability coverage insuring Licensee against liability arising from Licensee's occupation, use of maintenance of the Site. Licensee's coverage shall be in the amount of not less than \$1,000,000 for property damage and bodily injury to or death of one person in any accident or occurrence and in the amount of not less than \$3,000,000 for property damage and bodily injury to or death of more than one person in any one accident or occurrence. All such insurance shall name the City, its officers, employees and agents as additional insured.
- b. City shall at its option and expense maintain in force during the Term such fire, casualty, and extended coverage insurance covering any City owned improvements on the Site as the City may desire.
- c. Licensee shall at Licensee's option and expense maintain in force during the Term such fire, casualty and extended coverage insurance on Licensee's personal property located on the Site, including trade fixtures, equipment, machinery, inventory or other personal property belonging to

or in the custody of Licensee, and all such policies may waive any right of subrogation against the City.

- d. All coverage maintained by Licensee pursuant to Subparagraph a shall be provided by companies registered and licensed to sell insurance in the state of Florida and which may legally provide the coverage set forth herein, and shall be provided by companies reasonably satisfactory to the City and in form and substance reasonably satisfactory to the City, and shall provide that coverage will not be subject to cancellation, termination, revocation or material change except after thirty (30) days' prior written notice to the city.
- e. Within thirty days of the date of this Agreement, and in no event less than seventy two (72) hours prior to the Term, and thereafter upon the written request of the City, Licensee shall furnish to the City such certificates of coverage and certified copies of policies, pursuant to subparagraph a. In order to satisfy this provision, the documentation required by this part must be delivered to the City Clerk at 1001 W. Park Street, Parker, Florida.
- f. Licensee shall indemnify and hold harmless and defend the City and its officers, employees, agents and representatives from and against any and all damages, lawsuits, liabilities, claims, costs and expenses including reasonable attorney's fees ("Damages") arising in whole or in part from: (1) the occupation, use or maintenance of the Site by Licensee or anyone claiming by, through or under Licensee; or (2) the breach of any of Licensee's representations, warranties, covenants, or agreements hereunder, including any Damages arising solely from the negligence or willful misconduct of the City. The covenants contained in this paragraph shall survive the termination of this Agreement.
- g. If any third party claim is made against the City that, if sustained, would give rise to indemnification liability of the Licensee under this Agreement, the City shall promptly cause notice of the claim to be delivered to the Licensee and shall afford the Licensee and Licensee's counsel, at the Licensee's sole expense, the opportunity to join in defending or compromising the claim. The covenants contained in this

Paragraph 12 shall survive the termination of this Agreement.

13. Compliance with City Laws. In addition to the execution of this Agreement including any Addenda thereto, Licensee shall comply with all Codes, Ordinances and Resolutions of the City, including but not limited to the requirements of Resolution 2010-276, as may be amended or superseded, as a condition to Licensee's use and occupation of the Site and/or the Complex.

14. Rules. Licensee acknowledges that Licensee shall comply with all rules of the City relating to the use of the Complex.

15. Release. In connection with any Event, Licensee shall ensure that all participants sign and deliver to Licensee who in turn shall deliver to the City Clerk, a release and indemnification, the form of which shall be supplied by the City Clerk.

16. Force Majeure. The City's failure to inability to provide any facility for public use at any time as a result of circumstances beyond its control, such as, but not limited to, war, terrorism, strikes, fires, floods, hurricanes, acts of God, power failures, or damage or destruction of any facility related thereto, shall not be deemed a breach of this Agreement.

17. Time. Time is of the essence in this Agreement.

18. Remedies. Failure to cure a breach of a material term hereunder within four (4) hours of Licensee's receipt of written notice thereof shall entitle the City to terminate this Agreement. All rights and remedies conferred upon the parties in this Agreement shall be cumulative and in addition to those available under the laws of the State of Florida.

19. Assignment. This Agreement is not assignable by Licensee.

20. Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

21. Modifications. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the

same or similar formality as this Agreement and executed by the City and Licensee.

22. Waiver. Failure by the City to enforce any provision of this Agreement shall not be deemed a waiver of the provision or modification of this Agreement. A waiver by the City of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

23. Entire Agreement. This Agreement, and any appendixes attached hereto and incorporated herein, constitutes the entire agreement between parties pertaining to the subject matter hereof, and supercedes all prior and contemporaneous agreements, understanding, negotiations and discussions of the parties whether oral or written, and there are no representations, warranties, covenants or other agreements among them.

24. Attorney's Fees. In the event of any litigation hereunder, each party shall be responsible for its own attorney's fees and court costs at all trial and appellate levels and in any mediation or arbitration.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

Witnesses:

LICENSEE

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Its: \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_

CITY

CITY OF PARKER, FLORIDA, a  
municipal corporation

\_\_\_\_\_  
Print Name: \_\_\_\_\_

By: \_\_\_\_\_

Tonya K. Barrow, as Mayor

\_\_\_\_\_  
Print Name: \_\_\_\_\_

Attest:

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ADONNA MULLEN, as CITY CLERK

Appendix "A"

Sponsoring Organization: \_\_\_\_\_ Phone: \_\_\_\_\_  
Website: \_\_\_\_\_

Contract Representative Name: \_\_\_\_\_ Phone: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
Email Address: \_\_\_\_\_

Event Name:  
Dates Requested:  
Facilities Requested:

1. Schedule of Fees and Costs.

Security/Cleaning Deposit (Refundable)	Yes ( ) \$_____	No ( )
User/Rental Fee	Yes ( ) \$_____	No ( )
(\$_____ per hour/\$_____ per day/\$_____ per season)		
Concession Requested	Yes ( ) \$_____	No ( )
Total	\$_____	

All fees will include lighting, initial field set-up, clean up and maintenance charges. Users will be required to pay \$30.00 per hour per city employee who is required to work other than normal hours of operation (9:00 a.m. to 3:30 p.m. Monday through Friday).

2. Special Provisions for the Event.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I, the undersigned, understand and agree to abide by the terms and conditions set forth in this Appendix "A" to the PARKER RECREATIONAL FACILITY USE AGREEMENT.

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

**RELEASE AND INDEMNIFICATION**

IN CONSIDERATION of myself (an adult over 18 years of age) or my child(ren) being allowed to participate in athletic events at the Parker Sports Complex ("Complex"), the undersigned hereby releases, acquits and forever discharges the City of Parker, Florida ("City") and City's officers, directors, employees, affiliates, agents, attorneys, independent contractors, successors and assigns of and from any and all claims, demands, causes of actions, suits, in law or in equity which the undersigned ever had, now has or may have against City, whether for personal injury or property damage, resulting from or in connection with said participation in athletic events. The undersigned also agrees to indemnify, defend and hold harmless City and City's officers, directors, employees, affiliates, agents, attorneys, independent contractors, successors and assigns from any and all liabilities, demands, claims, expenses, costs, damages and/or losses of any kind, including attorneys' fees and costs, arising out of or in connection with the use of the Complex and/or participation in athletic events by the undersigned or the undersigned child(ren).

Dated as of this \_\_\_\_\_, 20\_\_\_\_\_.

Printed Name: \_\_\_\_\_

Printed Name: \_\_\_\_\_