

- practices. Any use of stadium lights for games shall require advance notice to Owner and may result in additional charges.
- c. Turface and marking chalk is the responsibility of the Park User.
 - d. Only approved drying agents may be used. No wood pellets.
 - e. Park user shall provide City with a directory of all staff who will be overseeing the field use, including board members, coaches, and any other staff.
 - f. Park User shall perform a background check on all persons who come in contact with children/players. A copy of that shall be provided to City.
 - g. Park User shall not store any personal property at the Park.
 - h. No unauthorized or privately owned equipment allowed on the field.
 - i. A representative of the Park User must be present while participants are present at the Park.
 - j. Fields and other areas used by Park User shall be cleaned and all trash removed after every use.
 - k. Failure to follow these rules may result in loss of Park User's deposit and immediate termination of the Agreement by Owner.

8. **Limitation of Liability.** Park User acknowledges that it has examined the portion of the Park subject to this Agreement and has satisfied itself as to its condition and further accepts the portion of the Park in the condition existing as of the effective date of this Agreement, AS IS, with all defects, if any. Park User covenants and agrees not to use the Park if it is in other than a safe condition. Owner shall not be responsible for any injury or damages to persons or property that may arise from or be incident to use of the Park by Park User or Park User's agents, employees, guests, or invitees or others who may use the Park at the invitation of any of them.

9. **Indemnification.** Park User shall indemnify and hold the Owner and their officers, employees, and agents harmless from and against all liability of whatever kind arising from or incident to use of the Park by Park User and by Park User's agents, employees, guests, permittees or invitees or any others who may use the Park. Park User's obligation to pay for all costs and expenses shall include those incurred by the Owner in assuming its own defense and/or that of its officers, employees or agents.

10. **Insurance.** Park User shall, at Park User's own expense, at all times during the term of this Agreement, maintain a comprehensive general liability policy with a minimum coverage of \$2,000,000 per occurrence, \$3,000,000 in the aggregate. Said policy shall be provided on an "occurrence" basis. "Claims made" coverage shall not be acceptable. The City shall be named as an additional insured. The insurance shall specifically include participants who will be using the Park and shall extend an endorsement for "Waiver of Subrogation." The policy shall include a provision that it may not be altered, amended, or cancelled without 30 days notice to City.

At least 15 days prior to Park User's use of the Park, proof of insurance coverage shall be provided to City.

11. **Miscellaneous.**

11.1 **Governing Law; Venue; Consent to Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon. Any claim, action, suit or proceeding that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Washington County for the State of Oregon or, if the claim, action, suit or proceeding must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon.

11.2 **Merger Clause; Waiver.** This Agreement and attached exhibits, if any, constitute the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind the parties unless in writing and signed by both parties and any other necessary approvals have been obtained.

11.3 **Amendments.** No amendment to this Agreement is effective unless it is in writing signed by the parties.

11.4 **Attorney Fees.** In the event of any action or proceeding to enforce the terms of this Agreement, the prevailing party shall be entitled to recover its reasonable attorney fees, in addition to costs and disbursements, at arbitration, trial, and on appeal.

11.5 **No Third Party Beneficiaries.** The signatories to this Agreement are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, or is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly, or otherwise, to third persons unless such persons are individually identified by name herein.

11.6 **Counterparts.** This Agreement may be executed in one or more counterparts, including by signature pages delivered in electronic format, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and date written below.

OWNER:

William Martin
Mayor

Date

PARK USER:

Sign: _____

Print Name: _____

Title: _____

Date Signed: _____