

**COLOR KEY:**

Black Font: Applies to all events

Blue Font: Applies to all events other than Camps/Clinics/Tournaments

Red Font: Only applies to Camps/Clinics/Tournaments

Purple Font: Only applies when filming on campus

FIU-Athletics Contract No. \_\_\_\_\_

**PREMISES USE AGREEMENT**

THIS PREMISES USE AGREEMENT (the “**Agreement**”) is made effective on the latest signature date below (the “**Effective Date**”) by and between The Florida International University Board of Trustees, on behalf of its Athletics Department, (“**FIU**”) and \_\_\_\_\_ (“**User**”).

**A. Use of Premises, Use Period and Condition & Care of Premises.**

i. Subject to the terms of this Agreement, FIU agrees that User may use the following space or space and equipment (the “**Premises**”):

\_\_\_\_\_.

ii. User may use the Premises only for the purpose of \_\_\_\_\_ (the “**Event**”) and all ancillary activities associated with the Event on the following date(s) and time(s) (the “**Use Period**”):

Date(s): \_\_\_\_\_

Time(s): \_\_\_\_\_

FIU reserves the right to reassign this reservation to similar facilities if the needs of FIU require such a reassignment. FIU reserves the right to terminate this Agreement and cancel the reservation where inaccurate representation of the Event or incomplete details have been provided. Reservations are not transferable, nor may User turn over the Premises for use by another customer without the express prior written approval of FIU.

iii. User acknowledges that it has inspected the Premises and that it is satisfied that the Premises have the capacity and capability “**AS IS**” to accommodate the activities contemplated under this Agreement.

iv. User, its officers, agents, representatives, employees, contractors, guests, invitees or persons contracting with User (together, the “**User Parties**”) are responsible for the proper use and care of any FIU property, including but not limited to, the Premises. No animals are allowed at any FIU lands occupied or controlled by FIU, including but not limited to any campus (an “**FIU Location**”), provided however,

that (i) service animals, defined as a dog or miniature horse used as an accommodation who is individually trained to do work or perform tasks for the benefit of an individual with a qualifying disability, are permitted, and (ii) emotional support animals, defined as a domesticated animal that may provide physical assistance, emotional support, calming, stability, and other kinds of assistance, but which is not a service animal, are not allowed into public areas of any FIU Location and are only allowed in residence halls with immediate access to outdoor areas. Skateboards, skates, rollerblades, bicycles, hover-boards, and other recreational equipment must be carried while in the Premises. User agrees to be responsible for and pay the costs of repair or replacement of any FIU property damaged, destroyed or lost as a result of the use of the Premises by User, reasonable wear and tear customary for such Event excepted.

- v. User agrees to remove all of User's property or other effects immediately after the completion of the Event. Costs will be assessed to User for cleanup and restoration by FIU as an Additional Charge (as hereinafter defined). If cleanup and restoration require more work than anticipated in restoring the Premises to the same condition provided to User prior to its use of the Premises, User shall be assessed an additional fee for such work. Any property that is left in, on, or around the Premises by User after a period of seven (7) days following the Use Period shall be deemed abandoned and become the property of FIU to be used or disposed of at the discretion of FIU.
- vi. To the extent applicable, User must procure, at its own expense, all permits required in connection with the Program, including, but not limited to, permit(s) required by FIU. User shall ensure that all of its contractors, agents or other representatives performing work on FIU's Premises are qualified, licensed, and insured in accordance with applicable Laws and FIU requirements. User shall ensure that all User Parties comply with the terms of this Agreement. Upon FIU's request, User will provide copies of any such permits, licenses and/or insurance.
- vii. In no event shall User use or bring any hazardous materials, as defined by applicable Laws, on the Premises. User agrees that there will be no dangerous or hazardous activities undertaken in or about the Premises. Any Event contemplating the use of fireworks, blank-shots and similar types of pyrotechnic materials, capable of ignition in an FIU Location must be coordinated with the Department of Environmental Health & Safety, FIU's Police Department, and a valid permit issued by the local fire department is required. For more guidance on fireworks, see FIU's policy at <http://ehs.fiu.edu/Programs/General%20Safety/Pages/Policies.aspx>. User further agrees not to make any alterations, additions and/or improvements to the Premises, building or equipment contained therein without prior written consent from FIU.
- viii. FIU shall have the right to manage, control, and enter upon the Premises at any time during the Use Period as it deems reasonably necessary to enforce all rules and regulations and/or applicable law. No User Parties may prohibit FIU staff from

accessing the Premises, cover the windows or lock the doors of the Premises prior to, during or after the Program.

- ix. Smoking. All FIU Locations are smoke-free, and smoking and/or use of any tobacco product is prohibited in all areas of all FIU Locations. User may not smoke traditional or electronic cigarettes, cigars, or pipes (including hookah or vaping) on any FIU Location, including inside the Premises. User will be charged for the cost of cleaning or eliminating smoke odors or stains in the Premises.

**B. User Fees.** In consideration of the use of the Premises and the services conferred on User herein, User shall pay to FIU the following fees, plus applicable taxes (collectively the “**Use Fees**”):

**[FOR ALL EVENTS OTHER THAN CAMPS/CLINICS/TOURNAMENTS]**

- i. User agrees to pay a base rental fee of \_\_\_\_\_ (“**Base Rental Fee**”) for the use of the Premises.
- ii. FIU shall retain the FIU Ticket Fee (defined below) collected from the Event, as more particularly described below. **[ONLY INCLUDE IF THE EVENT IS A TICKETED EVENT]**
- iii. User agrees to pay, at its sole expense, for all additional charges related to its use of the Premises at FIU’s Athletic Department’s then billable rate (the “**Additional Charges**”). The Additional Charges, once calculated, shall include an added nine percent (9.00%) administrative fee. Additional Charges include, but are not limited to:
  - a) Event Personnel: FIU shall furnish, at User’s sole cost and expense, the event personnel (“**Event Personnel**”), including ticket takers, ushering staff, security, emergency services, box office personnel, installation personnel, and the like. Event Personnel also includes FIU personnel which shall be provided at User’s sole cost and expense if, in the discretion of the FIU Athletics Director or his designee (initially designated as Wes Hardin), such personnel is required. FIU personnel includes, but is not limited to, event supervisors, cleaning/janitorial staff, office attendants, grounds men, laborers, technicians, control room production staff, and all other personnel reasonably necessary for the proper conduct of the Event.
  - b) Security: User acknowledges that although FIU’s Police Department provides normal routine patrol of all areas of FIU, FIU cannot guarantee security to the Premises, and FIU reserves the right to require safety and security measures for the Event at the sole cost and expense of User. User shall be solely responsible for the security of its equipment and that of the User Parties FIU property. FIU shall furnish, at User’s sole cost and expense, police and/or security and/or parking officers, as deemed necessary by the FIU Athletics Director or his

designee, for traffic, parking, crowd control and general safety. If, during the course of the Event, FIU reasonably determines that security for the Event is insufficient for proper crowd control, then FIU may summon such additional officers as are deemed reasonably necessary. User shall be responsible for payment of such additional security at the same rate as User has agreed to pay for other security personnel for the Event. In the event that off-duty police officers are summoned, then the compensation shall be based on the greater of four (4) hours or the actual time devoted to the Event. User acknowledges and agrees that the FIU Police Department and the FIU Department of Emergency Management shall have the ultimate discretion on the amount of police officers required at the Event and on any other security and safety measures required with respect to the Event. User further agrees to evacuate the Premises promptly upon hearing a fire alarm and/or upon notice given by FIU in the event FIU deems it necessary for the protection and safety of the public (it being understood and acknowledged that FIU shall have no liability or obligation to provide any refund or other reimbursement in connection with or arising from any such evacuation or notice). Without limiting any other obligation of User under this Agreement, User shall, and shall cause the User Parties to, strictly abide with FIU's policy regarding firearms and dangerous weapons, available at <https://policies.fiu.edu/files/32.pdf>.

- c) Field/Court Markings: FIU agrees to provide proper field/court markings designated by User's requirements at User's expense. Such requirements shall be furnished to FIU in writing and must be agreed upon by FIU no less than one (1) month prior to the Event date. If additional markings are necessary to return the field/court to its previous state (e.g., football or volleyball markings), User agrees to assume all such additional costs.
- d) Utilities: FIU shall furnish and User shall pay, as an Additional Charge, electric, utility power, lighting, water, and drainage services as presently installed for the Premises during the Use Period covering this Agreement. As further provided below, User expressly waives any and all claims for compensation for any and all losses or damages sustained by reason of any defect, deficiency, failure or interruption of the above utilities or any other utility service.
- e) Equipment: User must submit a list of all equipment requested from FIU on a rental basis, in writing, no later than one (1) month prior to the Event date. Such equipment will be made available only with the express written consent of FIU prior to set-up and use on the Premises. User assumes the sole cost and expense for rental, set-up and removal of all equipment provided by FIU. Any other equipment User intends to utilize for the Event must also be approved in writing by FIU prior to setup.
- f) Premises Damages: As provided above, User agrees to be fully responsible for the cost of any damage to the Premises caused by any of the User Parties.

The inspection of the Premises will be conducted within two (2) business days following the completion of the Event.

- g) Parking. FIU reserves the right to provide and control all parking at the Event, provided that User shall be responsible, as an Additional Charge, for the cost and expense of any parking staff, signage, use fees and any other related parking needs deemed necessary by FIU in connection with the Event. Additionally, FIU may charge a parking fee to Event patrons. All parking revenues and all parking rights shall belong to FIU. All User Parties must abide by all FIU parking rules and regulations, including, without limitation, those prohibiting parking on the grass or in handicapped spaces without proper authorization. User recognizes that any special arrangements made with respect to parking for the Event do not constitute a license or grant any permission to violate parking rules and regulations of FIU. User further acknowledges that FIU does not own or have any legal interest in the parking lot located south of the FIU Football Stadium. Accordingly, if User intends to use such lot in connection with the Event, User shall be responsible for obtaining any and all necessary approvals and permits from the applicable parties for such use.

**[FOR CAMPS/CLINICS/TOURNAMENTS]**

- i. Facility Usage Fee:
  - a. User will be charged a “**Facility Usage Fee**” of \$1.00 per participant per day. The \$1.00 fee will be applied, whether the use of the Premises is only for a partial day, team event, or shared due to unfavorable weather or scheduling conflicts.
  - b. The Facility Usage Fee will be assessed using the number of participants on the first day of the Event multiplied by the total number of days that make up the Use Period. A compliance audit shall be used to assess the number of first day participants. Notwithstanding the foregoing, tournaments may be assessed differently if, as a result of the tournament bracket format, it is determined that the number of participants is reduced each day after the first day of the Event. This will be assessed by FIU on a case-by-case basis.
- ii. Athletic Trainer/Medical Staffing Fees:
  - a. Each Event using FIU facilities is required to use a certified athletics trainer with first aid and CPR/AED certification. User shall be responsible for the cost of the athletics trainer and any additional incidental costs. All athletic trainers shall be previously approved by FIU. Additionally, the provision of medical staffing, first aid, transportation and insurance of injured participants and all related matters are the responsibility of the User.

- b. The FIU athletic training staff shall not be available to care for injured Event participants. Additionally, the FIU athletic training room shall only be open for and accessible to FIU athletes.
  - c. User should have a plan for transporting injured participants to the nearest hospital or other appropriate medical facility. User should be sure to have all insurance information on hand and to have a person designated to transport participants. The athletic trainer covering the Event must not leave the remaining participants unattended to take an injured participant to a medical facility. If Emergency Medical Services (EMS) is the designated transportation, contact the athletic trainer for the emergency action plan on file for that particular venue.
- iii. User agrees to pay, at its sole expense, for all additional charges related to its use of the Premises at FIU's Athletic Department's then billable rate (the "**Additional Charges**"). The Additional Charges, once calculated, shall include an added nine percent (9.00%) administrative fee. Additional Charges include, but are not limited to:
- a) Event Personnel: FIU shall furnish, at User's sole cost and expense, the event personnel ("**Event Personnel**"), including ticket takers, ushering staff, security, EMS, box office personnel, installation personnel, and the like. Event Personnel also includes FIU personnel which shall be provided at User's sole cost and expense if, in the discretion of the FIU Athletics Director or his designee (initially designated as Wes Hardin), such personnel is required. FIU personnel includes, but is not limited to, event supervisors, cleaning/janitorial staff, office attendants, grounds men, laborers, technicians, control room production staff, and all other personnel reasonably necessary for the proper conduct of the Event.
  - b) Security: User acknowledges that although FIU's Police Department provides normal routine patrol of all areas of FIU, FIU cannot guarantee security to the Premises, and FIU reserves the right to require safety and security measures for the Event at the sole cost and expense of User. User shall be solely responsible for the security of its equipment and that of the User Parties on FIU property. FIU shall furnish, at User's sole cost and expense, police and/or security and/or parking officers, as deemed necessary by the FIU Athletics Director or his designee, for traffic, parking, crowd control and general safety. If, during the course of the Event, FIU reasonably determines that security for the Event is insufficient for proper crowd control, then FIU may summon such additional officers as are deemed reasonably necessary. User shall be responsible for payment of such additional security at the same rate as User has agreed to pay for other security personnel for the Event. In the event that off-duty police officers are summoned, then the compensation shall be based on the greater of four (4) hours or the actual time devoted to the Event. User acknowledges and agrees that the FIU Police Department and the FIU Department of Emergency



Management shall have the ultimate discretion on the amount of police officers required at the Event and on any other security and safety measures required with respect to the Event. User further agrees to evacuate the Premises promptly upon hearing a fire alarm and/or upon notice given by FIU in the event FIU deems it necessary for the protection and safety of the public (it being understood and acknowledged that FIU shall have no liability or obligation to provide any refund or other reimbursement in connection with or arising from any such evacuation or notice). Without limiting any other obligation of User under this Agreement, User shall, and shall cause the User Parties to, strictly abide with FIU's policy regarding firearms and dangerous weapons, available at <https://policies.fiu.edu/files/32.pdf>.

- c) Field/Court Markings: FIU agrees to provide proper field/court markings designated by User's requirements at User's expense. Such requirements shall be furnished to FIU in writing and must be agreed upon by FIU no less than one (1) month prior to the Event date. If additional markings are necessary to return the field/court to its previous state (e.g., football or volleyball markings), User agrees to assume all such additional costs.
- d) Utilities: FIU shall furnish and User shall pay, as an Additional Charge, electric, utility power, lighting, water, and drainage services as presently installed for the Premises during the Use Period covering this Agreement. As further provided below, User expressly waives any and all claims for compensation for any and all losses or damages sustained by reason of any defect, deficiency, failure or interruption of the above utilities or any other utility service.
- e) Equipment: User must submit a list of all equipment requested from FIU on a rental basis, in writing, no later than one (1) month prior to the Event date. Such equipment will be made available only with the express written consent of FIU prior to set-up and use on the Premises. User assumes the sole cost and expense for rental, set-up and removal of all equipment provided by FIU. Any other equipment User intends to utilize for the Event must also be approved in writing by FIU prior to setup.
- f) Premises Damages: As provided above, User agrees to be fully responsible for the cost of any damage to the Premises caused by any of the User Parties. The inspection of the Premises will be conducted within two (2) business days following the completion of the Event.
- g) Parking. FIU reserves the right to provide and control all parking at the Event, provided that User shall be responsible, as an Additional Charge, for the cost and expense of any parking staff, signage, use fees and any other related parking needs deemed necessary by FIU in connection with the Event. Additionally, FIU may charge a parking fee to Event patrons. All parking revenues and all parking rights shall belong to FIU. All User Parties must abide by all FIU

parking rules and regulations, including, without limitation, those prohibiting parking on the grass or in handicapped spaces without proper authorization. User recognizes that any special arrangements made with respect to parking for the Event do not constitute a license or grant any permission to violate parking rules and regulations of FIU. User further acknowledges that FIU does not own or have any legal interest in the parking lot located south of the FIU Football Stadium. Accordingly, if User intends to use such lot in connection with the Event, User shall be responsible for obtaining any and all necessary approvals and permits from the applicable parties for such use.

**[FOR ALL EVENTS OTHER THAN CAMPS/CLINICS/TOURNAMENTS]**

**C. Payment Terms and Conditions.**

- i. User agrees to make payments due hereunder in the following manner:
  - a) User will pay 100% of the Base Rental Fee of \$\_\_\_\_\_ as a non-refundable deposit (unless FIU terminates for convenience as provided for herein) upon User's execution of this Agreement.

**OPTIONAL:**

User will pay 25% of the Base Rental Fee and estimated Additional Charges, amounting to a total of \$\_\_\_\_\_, as a non-refundable deposit (unless FIU terminates for convenience as provided for herein) upon User's execution of this Agreement. The total estimated amount of the Additional Charges as of the Effective Date of this Agreement is \$\_\_\_\_\_.

- b) User agrees to pay 100% of the estimated Additional Charges, estimated to be \$\_\_\_\_\_ as of the Effective Date of this Agreement, no later than fifteen (15) business days prior to the date of the Event. User agrees that prior to \_\_\_\_\_, FIU shall confirm the estimated amount of Additional Charges in the event such amount has changed since the Effective Date of this Agreement.

**OPTIONAL:**

User agrees to pay the remaining balance of the Base Rental Fee and estimated Additional Charges no later than fifteen (15) business days prior to the date of the Event. User agrees that prior to \_\_\_\_\_, FIU shall confirm the estimated amount of Additional Charges in the event such amount has changed since the Effective Date of this Agreement.

- c) User further agrees to pay any additional Event-related Additional Charges due and owing to FIU no later than fifteen (15) business days following receipt of



an invoice from FIU to User. If outstanding Additional Charges are not paid by such date, User agrees to pay interest at the then prevailing prime interest rate, which interest shall accrue monthly until all outstanding balances are paid in full. **[INCLUDE IF TICKETS ARE NOT APPLICABLE]**

User further agrees to pay any additional Event-related Additional Charges in accordance with the provision hereunder entitled "Ticketing Services." **[INCLUDE IF TICKETS ARE APPLICABLE]**

- d) As provided herein, User is solely responsible for any taxes due under this Agreement.
- e) User acknowledges and agrees that FIU shall have no obligation to reimburse User for any funds paid by User to FIU in connection with the Event except in the event FIU terminates the Agreement for convenience as provided below.
- f) Misrepresentations regarding Event details may result in adjustment of the User Fees. Rescheduling of the Use Period is only permitted one time, is subject to availability, and a rescheduling fee may apply.

**[FOR CAMPS/CLINICS/TOURNAMENTS]**

- i. User agrees to make payments due hereunder in the following manner:
  - a) All payments shall be paid in full no later than thirty (30) days after the Use Period.
  - b) All payments shall be made via cashier's check, money order, or wire transfer. If payments are made by check, the check shall be made payable to "FIU Athletics Department."
  - c) As provided herein, User is solely responsible for any taxes due under this Agreement.

**[FOR ALL EVENTS OTHER THAN CAMPS/CLINICS/TOURNAMENTS]**

**NOTE: "TICKETING SERVICES" ONLY APPLIES FOR EVENTS THAT REQUIRE TICKETING.**

**OPTION 1:**

- D. Ticketing Services.** FIU will have no authority to sell tickets for the Event. Ticket sales will be handled by User's preferred ticket company ("UPTC") as User's exclusive and sole agent for servicing tickets, provided that UPTC shall comply with all applicable laws

in conducting such ticket sales, including, but not limited to, all FIU rules and regulations. UPTC will be responsible for collection of all gross ticket sales for the Event. The following shall apply to all ticket sales:

- i. A \$\_\_\_\_\_ ticket surcharge (“**FIU Ticket Fee**”) shall be applied to all distributed tickets (other than the tickets used for entrance to the Premises for access to the FIU Reserved Suites [as defined below]). The FIU Ticket Fee shall be retained by FIU as part of the Use Fees, as further provided above.
- ii. All tickets shall be listed on a ticket manifest. The ticket manifest shall specifically state the number of tickets printed and the corresponding serial number.
- iii. User shall direct UPTC to transfer all gross ticket sales for the Event to FIU by no later than seventy-two (72) hours from the conclusion of the Event. User shall include these instructions in its written agreement with UPTC and shall provide a copy of such agreement to FIU fifteen (15) business days prior to the Event reflecting these directions/instructions. At FIU’s request, in its sole and absolute discretion, User shall cause UPTC to enter into a separate written agreement with FIU with respect to such transfer of gross ticket sales to FIU. From such amount, FIU shall retain the total agreed upon FIU Ticket Fee plus any unpaid Additional Charges due from User and deliver the difference to User pursuant to the following procedures:
  - a) Within ten (10) business days following the Effective Date, User shall submit a valid Vendor Set-Up and FIU W-9 provided by FIU.
  - b) User shall submit an invoice (the “**Payment Invoice**”) to FIU in an amount equal to the Event ticket revenue reported by FIU through use of the UPTC ticketing system less the FIU Ticket Fee due to FIU under this Agreement and any unpaid Additional Charges due from User to FIU.
  - c) FIU shall mail payment to User ten (10) business days after the later of:
    1. The Premises have been inspected and FIU has been made whole in the event of any damage to the Premises; and
    2. User submits the Payment Invoice.
  - d) In the event that revenue collected from the Event ticket sales is insufficient to cover all Additional Charges due and owing to FIU, User agrees to pay all such outstanding Additional Charges to FIU no later than fifteen (15) business days following the receipt of an invoice from FIU to User. If outstanding Additional Charges are not paid by such date, User agrees to pay interest at the then prevailing prime interest rate, which interest shall accrue monthly until all outstanding balances are paid in full.

## OPTION 2:

**D. Ticketing Services.** FIU will be responsible for collection of all gross ticket sales for the Event (including on-line and walkup sales), and shall use JumpTV ticketing system for the collection and tracking of all ticket sales. The following shall apply to all ticket sales:

- i. A \$\_\_\_\_\_ ticket surcharge (“**FIU Ticket Fee**”) shall be applied to all distributed tickets (other than the tickets used for entrance to the Premises for access to the FIU Reserved Suites [as defined below]). The FIU Ticket Fee shall be retained by FIU as part of the Use Fees, as further provided above.
- ii. All tickets shall be listed on a ticket manifest. The ticket manifest shall specifically state the number of tickets printed and the corresponding serial number.
- iii. No complimentary tickets will be issued except as otherwise authorized in writing by FIU.
- iv. User has the option to sign out up to \_\_\_\_\_ tickets to sell at one time. If User agrees to exercise said option, then User must make a deposit with FIU equal to 50% of the aggregate face value of the tickets. User must return either the full face value of all tickets sold (less the credit for the deposit held by FIU) or each unsold ticket to FIU prior to the commencement of the Event. User agrees that it is solely responsible for the full face value of all the signed out tickets in the event they are lost, misplaced, or stolen.
- v. FIU shall retain revenues from the Event sufficient to cover all Additional Charges due to FIU and not previously paid by User prior to the Event. In the event that the revenues collected from the Event are insufficient to cover all Additional Charges due and owing to FIU, User agrees to pay all such outstanding Additional Charges to FIU no later than fifteen (15) business days following receipt of an invoice from FIU to User. If outstanding Additional Charges are not paid by such date, User agrees to pay interest at the then prevailing prime interest rate, which interest shall accrue monthly until all outstanding balances are paid in full.
- vi. Following the settlement of all Use Fees due to FIU under this Agreement, FIU shall remit to User any remaining revenues collected by FIU, if any, pursuant to the following procedures:
  - a) Within ten (10) business days following the Effective Date, User shall submit a valid Vendor Set-Up and FIU W-9 provided by FIU.
  - b) User shall submit an invoice (the “**Payment Invoice**”) to FIU in an amount equal to the Event ticket revenue reported by FIU through use of the JumpTV ticketing system less the FIU Ticket Fee due to FIU under this Agreement and any unpaid Additional Charges due from User to FIU.

c) FIU shall mail payment to User ten (10) business days after the later of:

1. The Premises have been inspected and FIU has been made whole in the event of any damage to the Premises; and
2. User submits the Payment Invoice.

**E. Venue Suites.** FIU and User acknowledge and agree that FIU shall have the right to use and/or sell \_\_\_\_\_ suites located in the Premises during the Event at no cost to FIU (the “**FIU Reserved Suites**”). The FIU Reserved Suites shall be designated as suite numbers \_\_\_\_\_. User shall have the right to use and/or sell \_\_\_\_\_ suites (other than the FIU Reserved Suites) located in the Premises for use during the Event. Prior to making such suites available to the general public, User must permit FIU suite holders the right to first purchase said suites on the same terms as User shall make available to the general public.

**F. Gate Opening Time.** Doors/Gates shall open as advertised at \_\_\_\_\_. All tickets and promotions shall indicate the foregoing opening time of \_\_\_\_\_ and an Event start time of \_\_\_\_\_. Notwithstanding the foregoing, FIU reserves the right to change or adjust the doors/gates opening time as it deems reasonably necessary based on crowd control conditions and security/safety reasons.

**[NOTE TO DRAFTER: FOR CAMPS/CLINICS/TOURNAMENTS, FROM HEREON FORWARD, PLEASE CHANGE LETTERING AS D., E., & F. ABOVE ARE NOT APPLICABLE SO “FOOD AND BEVERAGE CONCESSIONS” SHOULD BE D. FOR CAMPS/CLINICS/TOURNAMENTS; ALSO NOTE THAT IF TICKETTING IS NOT APPLICABLE, YOU HAVE TO ADJUST THE LETTERING ACCORDINGLY]**

**G. Food and Beverage Concessions.** This Agreement shall not grant to User any food, tobacco or beverage concession rights, which belong solely to FIU. **Accordingly, the sale of all food or beverages, except by FIU and/or FIU’s concessionaire(s), is strictly prohibited.** Notwithstanding the foregoing and only to the extent User is authorized in writing by FIU (which authorization shall be in FIU’s sole and absolute discretion) to provide food or beverage services/concessions, (i) USER must use an approved caterer for catering services on FIU Locations and is required to adhere to FIU’s guidance on the use of approved vendors as posted at <https://shop.fiu.edu/dining/catering/preferred>), (ii) User shall comply, and shall cause its food/beverage service provider to comply, with all applicable laws, including, but not limited to, health and safety laws, pertaining to the service of food and beverages, and (iii) neither User nor User’s food/beverage service provider may advertise or directly market catering services or serve food or beverage for resale to the FIU community. The possession, service, sale, consumption and distribution of alcohol in any FIU Location, including the Premises, is strictly governed by all appropriate state and federal laws, local county ordinances, and FIU’s regulation regarding alcoholic beverages. User must disclose the desire to bring alcohol to the

Premises at the time of reservation. Alcohol must be served by a licensed bartender. No individual under the legal drinking age (minimum of 21 years of age) may possess, serve, sell, consume or distribute alcohol on any FIU Location, and no individual on any FIU Location may serve or otherwise provide alcohol, for consumption, to individuals under the legal drinking age of 21 years. The foregoing is not an exhaustive list of requirements; please refer to FIU Regulation 2505 regarding alcoholic beverages at <http://regulations.fiu.edu> for additional terms and conditions, which are incorporated as if fully set forth herein.

**H. Novelties and Merchandise.** User shall have the right to sell, or give away, all non-consumable merchandise of all types or descriptions, including, but not limited to, licensed merchandise, souvenirs, novelties, premiums, magazines and programs at the Premises on the Event day (or if more than one Event date, then on each Event day), except for FIU trademarked items. All concessionaires engaged by User for this purpose shall be granted access to the Premises in order to deliver their supplies, to set up and to render their services. FIU shall provide sufficient space and reasonable time for such purposes. User shall have the right to set prices (if any) for such merchandise, and shall retain all revenues (if any) therefrom, except for FIU trademarked items. FIU retains the right to sell all FIU trademarked items during the Event.

**I. Admission.**

**[FOR ALL EVENTS OTHER THAN CAMPS/CLINICS/TOURNAMENTS]**

- a. A maximum attendance of \_\_\_\_\_ (i.e., capacity of venue) will be permitted for the Event.
- b. All entry to the Premises for the Event shall be by ticket only, purchased at the full ticket price established by the User (to the extent applicable), except for employees of User and FIU whose presence is required for the presentation of the Event and who have received passes issued by User or FIU, and for the working media and working broadcast networks who have received passes issued by the User or as otherwise provided by this Agreement.

**[FOR CAMPS/CLINICS/TOURNAMENTS]**

A maximum attendance of \_\_\_\_\_ (i.e., capacity of venue) will be permitted for the Event.

**J. Risk of Loss.** User understands and agrees that FIU shall not be liable for any loss, injury or damage to any personal property or equipment brought into/onto the Premises by User or anyone whomsoever on User's behalf. All personal property placed or moved in the Premises shall be at the risk of User or the owner thereof. User further agrees that it shall be responsible to provide security whenever personal property either owned or used by the User or any other User Party is placed in/on the Premises, including any property or

equipment necessary for set-up and dismantling, whether or not the Premises is open to the general public.

**K. Insurance. Check, as applicable:**

a. \_\_\_\_\_ Insurance Requirements for Private Entities:

User shall provide FIU with proof of insurance sufficient to cover the operations and activities to be carried out on the Premises. Throughout the Use Period, User shall maintain, at its sole expense, the following minimum insurance coverage: (i) commercial general liability insurance (occurrence form) with minimum limits of [\$1,000,000.00 per occurrence – THIS LIMIT APPLIES TO ALL SPACES OTHER THAN THE STADIUM OR THE ARENA] [\$5,000,000.00 per occurrence THIS LIMIT APPLIES TO THE STADIUM AND THE ARENA] (including “damage to rented premises” with a minimum limit of \$1,000,000.00 each occurrence), (ii) workers' compensation insurance as required by all applicable workers' compensation laws and employer's liability insurance with minimum limits of \$1,000,000.00 each accident/disease-each employee & policy limit, for its protection and the protection of FIU; (iii) to the extent applicable, liquor liability insurance with minimum limits of \$1,000,000.00 per occurrence in the event User intends to serve and/or sell alcohol on the Premises; and (iv) to the extent applicable, appropriate medical insurance coverage for athletes or performers participating in the Event or User shall cause the participants to carry such medical insurance. User may purchase the required insurance referenced in (i) through (iii) above from FIU at the terms and rates then in effect from time to time.

The general liability insurance certificate shall indicate that the policy carries an endorsement (no more restrictive than CG 20 10) which names the following as additional insureds: Florida International University, the State of Florida, The Florida International University Board of Trustees, The Florida Board of Governors, the FIU Athletics Finance Corporation and their respective trustees, directors, officers, agents and employees. User's policy shall be primary and shall be issued in a form acceptable to FIU. Any insurance carried by FIU shall be noncontributing. The certificate shall contain a statement that the policy shall not be allowed to lapse or be canceled without notification to FIU at least thirty (30) days prior to the effective date of cancellation. User shall furnish to FIU proof of coverage no less than fifteen (15) days prior to the commencement of the Use Period for FIU's review and approval.

User's commercial general liability insurance shall be no more restrictive than that provided by the latest occurrence form edition of the standard commercial general liability coverage form (ISO form CG 00 01). The absence of a demand for any type of insurance certificates or policy shall not be construed as a waiver of User's obligations to carry and maintain the appropriate insurances at limits that are appropriate to the liability exposure associated with this Agreement and to ensure that its agents/subcontractors maintain appropriate insurance at all times. User shall



assume all risk and responsibility for the actions of its vendors/contractors/subcontractors/agents/representatives/participants on the Premises. FIU does not represent that coverage and the limits specified herein will necessarily be adequate to cover User liability.

Unless previously authorized by FIU, the policies required above shall be issued on a “first dollar” basis with no deductible or self-insured retention. In the event any of the policies are subject to a deductible or self-insured retention, it is the sole responsibility of User to pay such deductible or self-insured retention. FIU, upon request, reserves the right to obtain a copy of the policies required above at any time prior to, during and after the Use Period.

b. \_\_\_\_\_ Insurance Requirements for Public Entities:

User is a self-insured entity with a general and automobile liability risk management program, including the administration of general and automobile liability claims, settlement of claims, a loss control program and trust fund pursuant to Florida law. User agrees to maintain in full force and effect and throughout the Use Period, at User’s sole cost and expense, the insurance program pursuant to Florida law. User shall provide FIU with proof of self-insurance no less than fifteen (15) days prior to User’s use of the Premises.

To the extent applicable, User shall ensure that its vendors, contractors, subcontractors, agents, and/or representatives maintain, at the vendors’, contractors’, subcontractors’, agents’, and/or representatives’ sole expense, the following minimum insurance coverage: (i) commercial general liability insurance (on an occurrence form) which includes coverage for bodily injury, property damage, personal injury, products/completed operations, and contractual liability with minimum limits of \$1,000,000.00 per occurrence, and (ii) worker’s compensation insurance at the statutory limits as required by all applicable worker’s compensation laws and employer’s liability insurance of \$1,000,000.00 each accident/disease-each employee & policy limit, for its protection and the protection of FIU. The general liability insurance certificate shall indicate that the policy carries an endorsement (no more restrictive than CG 20 10) which names the following as additional insureds: Florida International University, the State of Florida, The Florida International University Board of Trustees, The Florida Board of Governors, the FIU Athletics Finance Corporation and their respective trustees, directors, officers, agents, and employees. The vendors’, contractors’, subcontractors’, agents’, and/or representatives’ policy shall be primary and shall be issued in a form acceptable to FIU. Any insurance carried by FIU shall be noncontributing. The certificate shall contain a statement that the policy shall not be allowed to lapse or be canceled without notification of FIU at least thirty (30) days prior to the effective date of cancellation. User shall assume all risk and responsibility for the actions of its vendors, contractors, subcontractors, agents, and/or representatives on the Premises. FIU, upon request, reserves the right to obtain a copy of the policies required above at any time prior to, during and after the Use Period.

**L. Indemnification.** User shall indemnify, defend and hold harmless Florida International University, the State of Florida, The Florida International University Board of Trustees, The Florida Board of Governors, the State of Florida Board of Trustees of the Internal Improvement Trust Fund, the FIU Athletics Finance Corporation and their respective trustees, directors, officers, agents, employees, contractors, and other representatives (collectively “Indemnitees”) from and against any and all demands, claims, causes of action, fines, penalties, damages (including consequential damages), losses (including death), liabilities, judgments, and expenses (including, without limitation, attorneys' fees and court costs at all tribunal levels) arising directly or indirectly from:

- a. the use or occupancy of the Premises by User or any person claiming under User or any of the other User Parties;
- b. any activity, work, or thing done or permitted by User in the Premises;
- c. any acts, omissions, or negligence of User or any person claiming under User or any of the other User Parties or any such person;
- d. any breach, violation, or nonperformance by User or any person claiming under User or any other User Parties or any such person of any term, covenant, or provision of this Agreement or any law, ordinance, or governmental requirement of any kind;
- e. any injury or damage to the person, property, or business of User, the User Parties, and/or any other person entering upon the Premises under the express or implied invitation of User; and/or
- f. any claims, losses, or expenses that arise in connection with the cancellation of the Event due to force majeure events or otherwise.

Nothing in this Agreement shall be deemed to affect the rights, privileges, and immunities of Indemnitees as are provided for by law. Nothing in this Agreement shall be construed as a waiver of sovereign immunity beyond that provided in Florida Statutes §768.28.

User expressly waives any and all claims of whatever nature, for any and all loss or damage sustained for any cause whatever, prior, during or subsequent to the Use Period, by reason of any defect, deficiency, failure or impairment of the Premises, including, but not limited to, the water supply system, air conditioning system, heating system, wires leading to or inside the Premises, gas, electric or telephone systems, or from any source whatsoever. FIU is not liable or responsible for any financial loss incurred by the User due to unforeseen, extenuating or reasonably uncontrollable events, which cause failure of any or all of the facilities to operate or function prior, during or subsequent to the Use Period.

This Section and all other indemnity obligations set forth in this Agreement shall survive the termination of this Agreement.

- M. Force Majeure.** FIU does not guarantee the uninterrupted use of the Premises in the event that the use of the Premises (or related facilities) is suspended or delayed by reason of fire, storm, explosion, strike, lockout, labor dispute, casualty, accident, lack or failure of sources of supply or labor, interruption of utilities, fuel supply, acts of God or of the public enemy, riots, interferences by civil or military authorities in compliance with the laws of the United States of America or the laws, orders, rules and regulations of any governmental authority, or by reason of any other cause beyond such party's control, or for emergency inspection, cleaning, repairs, replacements, alterations or renewals which are, in FIU's reasonable judgment, necessary to be made.
- N. Default.** If either party fails to comply with any material term or condition of this Agreement and/or fails to perform any of its obligations hereunder, then that party shall be in default. Upon the occurrence of a default hereunder which is not cured within five (5) business days after receipt of notice of default either in writing or via e-mail, the non-defaulting party, in addition to all remedies available to it by law, may immediately, upon notice to the defaulting party in writing or via e-mail, terminate this Agreement. If User is the defaulting party, all deposits, payments, advances, or other compensation paid by the User to FIU shall be forfeited and become the property of FIU. Notwithstanding any provision herein to the contrary, User's failure to make any payments due under this Agreement by the respective due dates shall be considered a material breach entitling FIU to immediately terminate this Agreement in its discretion, without any notice or opportunity to cure said default. In no event shall FIU be liable to User for any consequential, incidental, special and/or indirect damages or losses (in contract or tort), including, but not limited to, any lost revenues or savings in connection with this Agreement and/or any breach and/or default by FIU hereunder.
- O. Termination.** FIU shall have the right to terminate this Agreement for convenience at any time, in FIU's sole and absolute discretion. In the event of such termination, provided that User is not in default under this Agreement, FIU shall reimburse User for any payments previously paid by User to FIU. Additionally, this Agreement may be unilaterally canceled by FIU for refusal by User to allow public access to all documents, papers, letters or other materials subject to the provisions of Chapter 119, Florida Statutes (Florida's Public Records law), and made or received by User in conjunction with this Agreement. Without limiting the foregoing, if User willfully and/or repeatedly breaches the terms and conditions of this Agreement, in addition to FIU's rights under Sections (N) and (O) of this Agreement, FIU reserves the right in its sole and absolute discretion to cancel any other existing reservations and to deny subsequent reservation requests. FIU shall have no liability to User for any such cancellation or termination of the Agreement or otherwise.
- P. NCAA.**
- a. In connection with fulfilling its obligations under the terms of this Agreement, User agrees to strictly adhere to and comply with, and to cause all of its clients, advertisers, licensees, parent, affiliates, subsidiaries, advertising/promotional agencies, staff and any sublicensees, or other persons with which it enters into any

agreement as permitted hereunder, to strictly adhere to and comply with the NCAA rules, which may be amended from time to time by the NCAA. For purposes of this Agreement, NCAA Rules means the NCAA bylaws, rules, regulations, interpretations, standards and guidelines, including, but not limited to, the subject of the use of student-athlete likeness. Without limitation of the foregoing, except for events that are open to the general public, the entire university community or student body, (e.g., music concert) and for which student-athletes pay the required admission, if any, User will not invite nor knowingly allow current FIU student athletes to attend the Event without the express written consent of the FIU Director of the Athletics Compliance Office (ACO).

**[FOR CAMPS/CLINICS/TOURNAMENTS]**

- b. All of the documentation listed below should be completed, submitted and approved by the ACO:
  - i. An ACO Event Brochure Approval Form should be submitted and approved prior to the brochure being printed and/or distributed.
  - ii. An ACO Event Advertisement Approval Form should be submitted and approved prior to any advertisement of the Event.
  - iii. An ACO Free or Reduced Admission Form should be completed and submitted at least a week prior to the Event.
  - iv. An ACO Athletics Compliance Audit must be completed for each event conducted. Audits should be submitted to the Athletics Compliance Office no later than 10 business days after the completion of the Event.

**Q. Exclusives.** FIU has certain exclusive relationships with third parties which may affect use of the Premises, including: (1) Pepsi as FIU's exclusive beverage provider of carbonated and non-carbonated soft drinks, fruit juices and drinks, sports drinks, protein drinks, energy drinks, coconut-water based drinks, milk-based drinks, pre-packaged protein drinks, ready-to-drink tea and coffee products, packaged water, enhanced water, and flavored water; (2) Barnes & Noble as FIU's exclusive seller on-campus of items typically sold in college bookstores, such as books, educational supplies, stationery, desk accessories; and (3) Herff Jones as FIU's exclusive supplier of FIU class rings and commencement merchandise. Accordingly, no User Party may sell, promote or market any items which may conflict with these exclusive relationships. Additionally, User may not provide those excluded services outlined in **Exhibit A** attached hereto and herein incorporated. Any use of the Premises in contradiction of these terms shall be prohibited and may be cause for FIU's termination of this Agreement and/or removal of those items in violation of these terms, as determined by FIU in its sole and absolute discretion.

- R. **[CHECK IF APPLICABLE OR IF NOT, ENTER N/A \_\_\_\_\_] Additional Requirements for Minor Participants.** As a condition of having the Event at FIU and using the Premises, User agrees to comply with the following additional requirements as it relates to minor participants (i.e., those who are under the age of 18 years) under its supervision while on the Premises:
- a. **Criminal Background Checks Requirement.** User agrees that it will ensure that a Level II criminal background check pursuant to Florida Statutes, Section 435.04, has been conducted for all of its employees, agents, representatives, and/or volunteers who will be interacting or may interact with the minor children. User further agrees that it will not allow anyone convicted of a sexual offense to be employed or volunteer in any capacity for this Event. User represents and warrants that all the User's employees, agents, representatives, and/or volunteers involved in the Event have undergone the requisite screenings described in this paragraph or will be screened prior to the start of the Event and User indemnifies and holds FIU harmless from and against any and all claims, losses or expenses that may arise in connection with the foregoing.
  - b. **Medical Insurance.** User agrees to obtain proof of valid and current medical insurance coverage on behalf of every minor participant prior to the start of the Event. User represents and warrants that it will obtain such insurance required coverage prior to the start of the Event.
  - c. **Medical Authorization.** User agrees to obtain a signed Medical Authorization in a form the same or substantially the same the Addendum attached hereto and made a part hereof, on behalf of every minor participant. User represents and warrants that it has or will obtain a signed Medical Authorization on behalf of each minor participant before the start of the Event. User agrees to provide FIU with fully executed Medical Authorization forms within a reasonable time when requested by FIU. User indemnifies FIU and agrees to be responsible for any costs that FIU may incur for medical treatment sustained during the Event if User fails to obtain a valid Medical Authorization form.
  - d. **Release, Waiver of Liability and Assumption of Risk Forms for Minor Participants.** User agrees to obtain fully executed Release, Waiver of Liability and Assumption of Risk forms releasing FIU from all liability related to minors participating in the Event. The Release, Waiver of Liability and Assumption of Risk form for parents to sign on behalf of minors participating in the Event is attached hereto and made a part hereof as an Addendum to this Agreement. The Release, Waiver of Liability and Assumption of Risk form for minors must be fully executed by their lawful parent(s)/guardian(s). User represents and warrants that it has or will obtain all required Release, Waiver of Liability and Assumption of Risk forms for minor participants prior to the start of the Event. User indemnifies FIU for its failure to obtain the required forms against any resulting claims, damages, and attorney's fees.
  - e. **Safety & Security Procedures.** User warrants and represents that it has an emergency/crisis response plan appropriate for the Event's operations, that the User has procedures in place for addressing the safety and security of the Event participants

(in general and as required of the specifics of its Event), and that the User will ensure that the Event staff/volunteers adhere to the foregoing procedures, including, but not limited to, the following (which does not constitute an exhaustive list):

- i. Having activities planned for Program participants be age and developmentally appropriate;
- ii. If the Program is a sport camp of any type, clinic, and/or tournament, obtaining the prior written approval from the FIU Director of the Athletics Compliance Office (ACO). In order to obtain approval from the ACO, the User agrees to meet the following conditions:
  - a. An ACO Program Brochure Form must be submitted to and approved by the ACO prior to any Program brochure being printed and/or distributed;
  - b. An ACO Program Advertisement Approval Form must be submitted to and approved by the ACO prior to any advertisement of the Program; and
  - c. An ACO Athletics Compliance Audit must be completed for each Program and must be submitted to the ACO no later than ten (10) business days after completion of the Program.
- iii. Ensuring that the Program participants will not be exposed to any hazardous materials or conditions;
- iv. Having protocols to avoid or to address any potential food allergy issues;
- v. Providing reasonable medical care and attention appropriate to the ages of the Program participants, the physical activity in which the Program participants are engaged, and the physical environment in which the activity occurs (e.g., addressing heat strokes, concussions);
- vi. Having a plan for transporting injured Program participants to the nearest hospital or other appropriate medical facility in the event of a medical emergency;
- vii. Having the appropriate number of staff/volunteers to Program participant ratio to ensure the safety of the Program participants based on the Program requirements (see the American Camp Association for suggested staff-to-minor participant ratios: <http://www.acacamps.org/resource-library/accreditation-standards/aca-standards-relate-staff-screening-supervision-training>);
- viii. Ensuring that, at no time during the Program, will the User permit the staff/volunteers to be alone with a single Program participant where the staff/volunteers cannot be observed by others;
- ix. Ensuring that Program participants will not be left unsupervised, including during the time of drop off or pick up for the Program;
- x. Ensuring that, under no circumstances, will the staff/volunteers release Program participants to anyone other than the authorized parent, guardian or other adult authorized by the parent or guardian;
- xi. Ensuring that the staff/volunteers shall not abuse or mistreat Program participants in any way, including, but not limited to, physical abuse (e.g., striking, spanking, shaking, slapping); verbal abuse (e.g., humiliating, degrading, threatening); sexual abuse (e.g., touching or speaking inappropriately or showing Program participants inappropriate materials);



- mental abuse (e.g., shaming, withholding kindness, being cruel, belittling); and/or neglect (e.g., withholding food, water, or basic care);
- xii. Having a process and procedure to deal with potential bullying and hazing issues;
  - xiii. Ensuring that the staff/volunteers engage only in appropriate touching necessary for the Program activities and relative to the Program participants' ages;
  - xiv. Ensuring that the staff/volunteers have appropriate protocols in place for bathroom usage (e.g., making sure that a restroom is not occupied by suspicious or unknown individuals before allowing Program participants to use the facilities; with respect to younger Program participants, sending Program participants in threes and, whenever possible, with at least two staff/volunteers of the same gender);
  - xv. Having an evacuation plan in the event of an emergency, such as inclement weather, fire, etc.;
  - xvi. Ensuring that all dive, boat and/or other water sport-related activities that take place in the ocean and/or other large bodies of water are reviewed, approved and supervised by the FIU Dive and Boat Safety Team;
  - xvii. Refraining from taking photographs and/or videos of the Program participants (including through the use of cell phones) and/or from posting any photographs and/or videos on social media without prior written approval from the Program participant's lawful parent/guardian; and
  - xviii. Ensuring that the staff/volunteers adhere to the Florida mandatory child abuse reporting requirements as set forth in Florida Statutes Section 39.201 and are familiar with the definitions of abuse as set forth in Florida Statutes.

**S. Miscellaneous Provisions.**

- i. No Joint Venture: It is expressly understood that by making the Premises available, The Florida International University Board of Trustees, Florida International University, State of Florida, The Florida Board of Governors and the FIU Athletics Finance Corporation are not entering into any type of joint venture agreement with the User, nor are they acting as an agent of or for the User.
- ii. Copyright Licenses/Permissions: User, for itself and on behalf of the artist or promoter of the Event, represents and warrants to FIU that all copyrighted or trademarked programming to be presented has been duly licensed or authorized by the owners of all respective intellectual property or their representatives. User shall obtain, at its own expense, any licenses, and pay any royalties which User may owe for the sale of copyrighted or trademarked material at any activities contemplated under this Agreement. User hereby indemnifies and holds FIU harmless from and against any and all claims, losses or expenses that may arise in connection with the provisions contained herein. This provision shall survive the termination of this Agreement.

- iii. BMI/ASCAP Licenses: To the extent applicable, User shall obtain a copy of the blanket BMI and/or ASCAP license in connection with the Event. User represents and warrants that all BMI and/or ASCAP fees for the Event, if any, will be paid by User and User further agrees to indemnify and hold FIU harmless from any and all claims, losses or expenses incurred with regard thereof. This provision shall survive the termination of this Agreement.
- iv. FIU Logo/Marks: This Agreement does not confer upon User any rights to use the name, logos, marks and likeness of FIU except as may be approved in advance by FIU in writing. User must obtain FIU's written permission prior to using FIU's name, logos, marks and likeness of FIU from the Division of External Relations. For more information on the use of FIU's logo/marks, refer to <http://www.fiu.edu/brand>.
- v. Beverages: There shall be no bottles or cans of any sort brought into the Premises during the presentation of the Event. User agrees to advise the invitees of this provision by including this restriction in all promotions for the Event.
- vi. Restriction for Playing Field: User agrees to restrict all vehicles from the grass and playing field. Any exception to this restriction may only be granted by the Athletics Director or his designee in writing.
- vii. Access: User agrees to keep all portions of sidewalks, doors, passages, halls, stairways, and any and all ways of access to the Premises free and unobstructed by User and such areas shall not be used except for ingress or egress to the Premises by User.
- viii. Display Advertising: The amount and contents of display advertising at the Premises shall be at the discretion of the FIU Athletics Director or his designee. No decorations shall be placed in or on the Premises, nor shall any devices or signs be supported by any means without prior written consent of the FIU Athletics Director or his designee. Any exhibit material, sets, scenery, and the like must be flame proofed material and conform to the Miami-Dade County fire code.
- ix. Recognition Rights: During the term of this Agreement, User shall identify the Premises as “\_\_\_\_\_” (i.e., name of the venue) in all promotional material and press releases prepared or issued in connection with the Event, or as FIU may otherwise designate in writing in the event that FIU secures naming rights for the Premises.
- x. Third Party Marks: User acknowledges that the Premises may include signage referring to third-party sponsors or advertisers and understands that FIU does not hold or own any copyrights or trademarks related thereto. User also acknowledges that FIU shall not remove any signage from the Premises. User agrees to obtain the advance written consent of the individual copyright/trademark holder prior to filming, taping, recording or photographing any such third-party marks or other intellectual property exhibited on FIU property. In the event User films any such

footage without first obtaining the appropriate consent to do so as provided above, User shall blur any portion of the Premises that contains such footage. User agrees to release, indemnify and hold harmless FIU from and against any third-party claim relating to the unauthorized use, filming, taping, recording or photographing of any third-party sponsor's or advertiser's marks or other intellectual property located on FIU property. This provision shall survive the termination of this Agreement.

- xi. Promotional Activities: User agrees to perform its promotional activities related to its use of the Premises in accordance with all applicable Laws and FIU requirements, and in the least intrusive manner so as not to disturb the atmosphere of the campus and the educational activities therein. Marketing of the Event may not begin until the reservation is confirmed and paid for and User has obtained all required permits and approvals (including, without limitation, approval from the FIU Athletics Compliance Office if the Event is a camp or clinic). Furthermore, User represents and warrants to FIU that it has obtained any and all consents, and paid any required compensation, for the use of the name, likeness and image of any persons shown or featured in User's promotional materials for the Event or any merchandise or materials sold or distributed for or during the Event. User hereby indemnifies and holds FIU harmless from and against any and all claims, losses or expenses that may arise in connection with this provision. This provision shall survive the termination of this Agreement.
  
- xii. Compliance with Americans with Disabilities Act: User understands that FIU in providing the Premises does not act as the presenter or promoter of the Event. FIU will, if and to the extent required by law, be responsible for insuring that the Premises comply with applicable rules and regulations, including, without limitation, the Americans with Disabilities Act. However, it shall be User's responsibility to insure that any special assistive or other accommodations are provided for its disabled guests, invitees and employees of the Event, such as the provision of interpreters, attendants and the like. In no event shall FIU be required to incur any costs or expenses needed to adapt the Premises for the intended use of the Event. User agrees to indemnify and hold FIU harmless from and against any and all liability, fines, suits, claims, demands and actions, costs, attorney's fees and expenses of any kind or nature whatsoever for any damages incurred, whether economic, punitive, compensatory or otherwise, which may arise in connection with (i) User's failure to reasonably accommodate any disabled individual who is a guest, invitee, or employee at its Event on the Premises and from and against any orders, judgments or decrees which may be entered pursuant thereto, and/or (ii) User changing the layout of the Premises, which layout as provided by FIU is in compliance with applicable Laws regarding the needs of people with disabilities, and not restoring said compliant layout to the same condition after termination of the Event This provision shall survive the termination of this Agreement.
  
- xiii. Non-Discrimination: User represents and warrants to FIU that User does not and will not engage in discriminatory practices and that there shall be no discrimination

in connection with User's use of the Premises or presentation of the Event on account of race, color, sex, religion, age, handicap or marital status.

User further covenants that no individual shall, solely by reason of his/her race, color, sex, religion, age, handicap, sexual orientation, marital status or national origin, be excluded from participation in, be denied services, or be subject to discrimination in connection with the use of the Premises under this Agreement.

- xiv. Assignment: This Agreement shall not be assigned nor sublet by any party, in whole or in part, without the prior written consent of the other party, which may be withheld or conditioned, in such party's sole discretion.
- xv. Successors and Assigns: This Agreement shall be binding upon the parties hereto, their respective successors, or assigns.
- xvi. Third Party Beneficiaries: Except as specifically set forth herein, this Agreement does not and is not intended to confer any rights or remedies upon any person other than the parties to this Agreement.
- xvii. Waiver: The waiver by either party of a breach or violation of any provision of this Agreement shall not operate as or be construed to be a waiver of any subsequent breach thereof.
- xviii. Survival: Any provision of this Agreement providing for performance by either party after termination of this Agreement shall survive such termination and continue to be effective and enforceable.
- xix. Severability: If any provision or application thereto to any circumstance is held to be invalid or unenforceable, such provision shall be ineffective and the remainder of this Agreement shall remain valid and enforceable.
- xx. Entire Agreement: This Agreement constitutes the full and final expression of intent by each party and supersedes all prior agreements or understandings. No paragraph, clause, condition or privilege may be modified, varied, altered or added except by mutual agreement of the parties, in writing. All matters not authorized expressly by the written terms of this Agreement shall be reserved to the discretion of FIU.
- xxi. Authorization: Each of the parties represents and warrants that (a) the persons executing this Agreement are duly authorized by their respective entities to execute a binding agreement; and (b) this Agreement is the valid and binding agreement of such party, enforceable in accordance with its terms.
- xxii. Counterparts/Facsimile & Electronic Signature: This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of

which, together, shall constitute but one and the same instrument. To the extent permissible under Florida law, a facsimile/electronic (i.e. sent as a PDF attached to an email) signature shall be deemed to constitute an original signature for the purposes of this Agreement.

- xxiii. Intentionally Deleted.
- xxiv. Governing Law & Compliance with All Laws: This Agreement shall be construed, interpreted, enforced and governed by and under the laws of State of Florida. Exclusive jurisdiction and venue of any actions arising out of, or relating to or in any way connected with this Agreement shall be in Miami-Dade County, Florida. User shall abide by and comply with all applicable (including municipal, county, state, federal, NCAA, Conference USA) laws, ordinances, codes, licensing requirements, and rules and regulations in its use of the Premises, including, but not limited to, environmental laws, federal and state rules and regulations regarding political campaigns and elections (to the extent the applicable) and FIU rules, procedures, regulations, and policies (collectively, the “Laws”). User understands that FIU regulations, policies and/or procedures can be viewed on FIU’s website at <https://reservespace.fiu.edu/policies-procedures/>. Without limiting any other provision herein, FIU may terminate this Agreement at any time if FIU determines, in its sole discretion, that any actions by any of the User Parties constitutes a violation of any of the aforesaid laws and FIU shall not be subject to any liability for said cancellation.
- xxv. Taxes: User acknowledges sole responsibility for the payment of all applicable federal, state and local taxes or fees, including, but not limited to, sales, entertainment, and/or payroll taxes, that are due and owing as a result of the Event. FIU shall be held harmless from any claims for any such taxes.
- xxvi. Conflict of Interest: User represents that it has no employee who has, or whose relative has, a relationship with FIU, in a manner that will violate the Code of Ethics for Public Officers and Employees, including, but not limited to, Florida Statute, Sections 112.313(3) and (7), and Florida Statute, Section 112.3185(6), thereof, by reason of User entering into this Agreement.
- xxvii. Radon Gas Disclosure. RADON Gas: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county health department.
- xxviii. Availability of Funds: FIU’s performance and obligation to pay under this Agreement, to the extent applicable, is contingent upon an annual appropriation by the Florida Legislature.

xxix. Notices: Whenever this Agreement requires or permits any notice by one party to the other, such notice shall be written and sent to the addresses set forth below by any of the following means: (a) commercial overnight or next business day guaranteed courier service, (b) certified United States Mail, return receipt requested, (c) hand delivery, or (d) via email transmission with confirmed receipt. Notices shall be deemed received upon delivery by commercial overnight or courier service or hand delivery, refusal of delivery, 5 business days after being deposited in the United States mail, return receipt requested, or confirmation of receipt of an email transmission, as applicable. A notice given by an attorney representing the party to this Agreement shall be deemed to be given by such party.

Addresses for notices are as follows:

a. Any notice to be served upon FIU shall be served to the following address:

Mr. Pete Garcia  
FIU Arena  
FIU Athletic Offices – Suite 201  
11200 SW 8<sup>th</sup> Street  
Miami, FL 33199  
Facsimile: \_\_\_\_\_  
Email: [pgarcia@fiu.edu](mailto:pgarcia@fiu.edu)

b. Any notice to be served upon User shall be served to the following address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Email: \_\_\_\_\_

**[FOR FILMING ON PREMISES]**

**T. Filming on Premises.**

a. **Limited Non-Exclusive License Rights.** FIU agrees to provide User with a limited, non-exclusive license to use the photographic images of the Premises (the “**FIU Intellectual Property**”) solely for the limited purpose of the filming of the Event expressly identified under this Agreement, subject to the provisions set forth below and provided that the product of any such filming does not include FIU branding depicting the name, logos, marks, trademarks and/or likeness of FIU (including, but not limited to, any FIU



branding depicting the name, logos, marks, trademarks and/or likeness of FIU on any clothing or other gear worn by individuals, if any, or on any other objects filmed as part of the filming contemplated herein). User agrees that all right, title, and interest in and to the FIU Intellectual Property is and shall remain the sole and exclusive property of FIU and that User shall acquire no rights therein by reason of this Agreement other than this limited non-exclusive license. User further agrees that it shall not portray or use the FIU Intellectual Property in a negative, harmful or otherwise inappropriate manner, and will not display or otherwise associate the FIU Intellectual Property with content related to tobacco, alcohol, illegal drugs or sexually explicit material. User will not sell, display or otherwise use the FIU Intellectual Property in any manner except for the limited purpose stated herein.

- b. **Filming of Works of Art.** User acknowledges that many of the sculptures or other works of art located throughout the campus are on loan to FIU and understands that FIU does not hold or own any copyrights related thereto. User agrees to obtain the advance written consent of the individual artist and/or copyright holder prior to filming, taping, recording or photographing any work of art exhibited on FIU property. User agrees to release, indemnify, and hold harmless FIU from and against any third-party claim relating to the unauthorized use, filming, taping, recording or photographing of any work of art located on FIU property. This provision shall survive the termination of this Agreement.
  
- c. **Filming of Students, Faculty or Staff.** User agrees that no filming or photography of students, faculty, or staff will be done without specific written releases from such persons. To the extent applicable, User represents and warrants that it has or will obtain all required releases and agrees to indemnify FIU for its failure to obtain the required forms against any resulting claims, damages, and attorney's fees. Without limiting the foregoing, User further acknowledges, warrants and represents that no FIU student, faculty or staff filmed or photographed, as contemplated herein, shall be filmed or photographed wearing FIU gear or any FIU branding depicting the name, logos, marks, trademarks and/or likeness of FIU unless otherwise authorized in writing by FIU. This provision shall survive the termination of this Agreement.

[SIGNATURE PAGE FOLLOWS]

The parties execute this Agreement as of the Effective Date.

**USER:**

\_\_\_\_\_

**FIU:**

**THE FLORIDA INTERNATIONAL  
UNIVERSITY BOARD OF TRUSTEES**

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

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

Title: \_\_\_\_\_

Date: \_\_\_\_\_

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

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

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Compliance Initials: \_\_\_\_\_ Football Initials: \_\_\_\_\_

Baseball Initials: \_\_\_\_\_ Softball Initials: \_\_\_\_\_

Soccer Initials: \_\_\_\_\_ Tennis Initials: \_\_\_\_\_

Basketball or Volleyball Initials: \_\_\_\_\_

## **EXHIBIT “A” TO PREMISES USE AGREEMENT**

### **FIU SALES RESTRICTIONS**

User may not sell (or operate) the following in the Premises:

- Guns, firearms, explosives or related products;
- Alcoholic spirits and/or beverages (excludes beer, malt beverages with an alcohol content of no more than 6.243% by volume or 5% by weight, still wine and sparkling wine);
- Any tobacco or tobacco-related products;
- Pornographic, obscene, or profane materials;
- An adult entertainment bar or club;
- Pari-mutuel betting facility, casino or other gambling operations (excludes state lottery);
- Educational textbooks including new, used rental or e-book formats and related educational supplies, notebooks, stationery, desk accessories, class rings and jewelry;
- Beverage and snack vending machines;
- Food services (*i.e.*, restaurants, coffee shops. etc.) that serve prepared hot and/or cold food;
- Medical services, specifically including but not limited to urgent care medical services, minute clinics and/or physicians;
- Banking services to students, faculty and staff, including but not limited to checking accounts, loans, and related branch banking services;
- Credit cards offers or affiliations to students; and
- Beverages outside of those included in FIU’s core list of beverages, as defined in its Pepsi Pouring and Vending Contract.\*

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\* Pepsi is the exclusive provider of Core Beverages sold, promoted and marketed on FIU campuses. Core Beverages include the following categories: carbonated and non-carbonated soft drinks; 100% shelf-stable fruit juices (e.g., Dole and Ocean Spray) and juice drinks (less than 100% fruit juice); sports drinks, pre-packaged value-added protein drinks (e.g., Muscle Milk); energy drinks; coconut water-based drinks; milk-based drinks which contain less than 50% milk; pre-packaged protein drinks; ready-to-drink tea; ready-to-drink coffee products; packaged water; enhanced water; and flavored water. Note, this exclusivity does not extend to milk, dairy and yogurt drinks, specialty name branded flavored milk (i.e., 2% skimmed, chocolate milk and flavored milk), or hot beverage items (i.e., hot teas, hot coffee, hot soups and specialty flavored hot coffee type offerings).

Pepsi has exclusive marketing rights with regards to the above categories of Core Beverages sold on FIU campuses. Therefore, only Pepsi’s Core Beverages may be marketed, promoted, or given away on FIU campuses. Further, only Pepsi is allowed to represent that Pepsi, or any of Pepsi’s Core Beverages, is “the beverage sponsor of FIU,” “the exclusive drink of FIU,” “A proud sponsor of FIU,” “the Official drink of FIU,” or be permitted by FIU to use any other similar phrase or representation.

**ADDENDUM TO PREMISES USE AGREEMENT**

**MEDICAL AUTHORIZATION**

**[INCLUDE IF APPLICABLE]**

*[SEE ATTACHED]*

**MEDICAL AUTHORIZATION**

**PARENTAL/GUARDIAN CONSENT & AUTHORIZATION**

I, the undersigned, am the parent or legal guardian of \_\_\_\_\_, a minor child, younger than 18 years of age (“My Child”), whose address is \_\_\_\_\_. I acknowledge that My Child has been provided with the opportunity to participate in the following program (the “USER’s Program”): \_\_\_\_\_, occurring on \_\_\_\_\_, which shall take place at the following location: \_\_\_\_\_ on The Florida International University Board of Trustees’ (“FIU”) \_\_\_\_\_ Campus, in Miami, Florida (the “Premises”). I understand and agree that FIU’s sole role in this matter is to allow \_\_\_\_\_ (the “USER”) to use the Premises for USER’S Program as further described and outlined in the accompanying Premises Use Agreement between FIU and USER.

We/I, the parent(s) or guardian(s) of My Child, do hereby request that FIU, through its agents or employees, take whatever steps necessary to secure medical treatment for My Child in the event My Child appears to be, at the sole discretion of FIU, in need of such treatment while attending the USER’S Program. We/I consent to the rendering of all necessary treatment, including, but not limited to, admission to a hospital or other appropriate health care facility, in such institutions and at such places as FIU, in its sole discretion, acting through its agents or employees, deems best. I authorize the agents or employees of FIU to execute whatever forms and/or actions might be necessary to ensure complete and adequate care of My Child and guarantee payment of all charges incurred as a result of any medical treatment or emergency transportation deemed necessary.

If this document is being signed by only one parent, I, the undersigned, affirm that I have been judicially granted sole custody of the participant. If this document is being signed by a guardian(s), I/we, the undersigned, affirm that I/we have been judicially granted legal guardianship of the participant.

In signing this Medical Authorization, we/I acknowledge and represent (i) that we/I have read and understand it; (ii) that we/I sign it voluntarily and for full and adequate consideration, fully intending to be bound by the same; and (iii) that we/I are at least eighteen (18) years of age and fully competent. We/I understand that this is a legal document which is binding on us/me, our/my heirs, executors, administrators, and assigns and on those who may claim by or through us/me.

\_\_\_\_\_  
Parent or Guardian (please print)

\_\_\_\_\_  
Parent or Guardian Signature Date

\_\_\_\_\_  
Parent or Guardian (please print)

\_\_\_\_\_  
Parent or Guardian Signature Date

\_\_\_\_\_  
Witness (please print)

\_\_\_\_\_  
Witness Signature Date

\_\_\_\_\_  
Home, Work and Mobile Phone Number(s) of Parent(s) or Guardian(s)

\_\_\_\_\_  
Address Parent or Guardian

\_\_\_\_\_  
Medical Insurance Company Name

\_\_\_\_\_  
Policy Number/Plan Number

**ADDENDUM TO PREMISES USE AGREEMENT**  
**RELEASE, WAIVER OF LIABILITY, AND ASSUMPTION OF RISK (MINORS)**

**[INCLUDE IF APPLICABLE]**

*[SEE ATTACHED]*

**RELEASE, WAIVER OF LIABILITY, AND ASSUMPTION OF RISK (MINORS)**

I, the undersigned, am the parent or legal guardian of \_\_\_\_\_, a minor child, younger than 18 years of age (“My Child”), whose address is \_\_\_\_\_. I acknowledge that My Child has been provided with the opportunity to participate in the following program (the “USER’s Program”): \_\_\_\_\_, occurring on \_\_\_\_\_, which shall take place at the following location: \_\_\_\_\_ on The Florida International University Board of Trustees’ (“FIU”) \_\_\_\_\_ Campus, in Miami, Florida (the “Premises”), I understand and agree that FIU’s sole role in this matter is to allow \_\_\_\_\_ (the “USER”) to use the Premises for USER’s Program as further described and outlined in the accompanying Premises Use Agreement between FIU and USER. I further acknowledge and understand that USER is an independent contractor offering its services without any participation by FIU. It is expressly understood that by making the Premises available, FLORIDA INTERNATIONAL UNIVERSITY, STATE OF FLORIDA, THE FLORIDA BOARD OF GOVERNORS, THE FIU ATHLETICS FINANCE CORPORATION, and their respective officers, directors, employees, representatives, trustees, agents, students and volunteers (collectively the “Releasees”) are not entering into any type of joint venture agreement with USER, nor are they or any of them acting as an agent of or for USER.

I give FIU authority to (i) record the likeness and voice of My Child on a video, audio, photographic, digital, electronic or any other medium and to use My Child’s name in connection with these recordings; and (ii) use, reproduce, exhibit or distribute these recordings in whole or in part in perpetuity in any and all media throughout the universe (including, but not limited to, print publications, video tapes, non-theatrical, home video, CD-ROM, internet and any other electronic or other medium presently in existence or invented in the future) for any purpose that FIU, and those acting pursuant to its authority, deem appropriate, including promotional, recruiting, advertising and any commercial or non-commercial use. I understand and agree that all such recordings, in whatever medium, shall remain the property of FIU.

I, for myself, for My Child, My Child’s heirs, executors, administrators and assigns, hereby release, waive, relinquish, and forever discharge and hold harmless the Releasees from any and all claims, demands, damages, actions and causes of action, including, but not limited to, claims, demands, damages, actions and causes of actions for personal or bodily injury, damage or loss of property, or wrongful death, which I, My Child, My Child’s heirs, executors, administrators, and/or assigns have or may ever have arising out of, by reason of, or in any manner related to My Child’s participation in USER’s Program and its related activities on FIU’s Premises, whether the same should arise by reason of negligence of Releasees or anyone organizing or participating in the activity or otherwise or in any way whatsoever or howsoever caused by the negligence of any of the Releasees. I specifically understand that I am releasing, discharging, and waiving any claims or actions that I may have presently or in the future for the negligent acts of or other conduct by Releasees. Further, I hereby agree that under no circumstances will I, for myself, for My Child, My Child’s heirs, executors, administrators and/or assigns, prosecute or present any claim for personal or bodily injury, damage or loss of property, or wrongful death against any or all of the Releasees. It is my intention by this instrument to exempt and relieve the Releasees from any and all liability arising out of My Child’s participation in USER’s Program at FIU, including, but not limited to, liability for personal or bodily injury, damage or loss of property, or wrongful death.

If My Child is also a student at FIU, I hereby release FIU from and against any and all claims, demands, actions, causes of actions, suits, costs, expenses, liabilities, and damages whatsoever that I or My Child may have from liability for any violation of any personal or proprietary right I or My Child may have in connection with the use of My Child’s likeness, voice, or name in any medium, and expressly waive any rights to privacy I or My Child may have under the Family Educational Rights and Privacy Act (“FERPA”), §1002.22, Fla. Stat., and/or any other applicable law.

I acknowledge that I am aware of risks and hazards connected with the USER’s Program and its related activities, including the risk of severe physical injury and other physical hazards, and that there may be risks and hazards

unknown to me or My Child. I acknowledge that My Child's participation in the USER's Program is purely optional and that My Child is freely and voluntarily participating in the program, despite any such risks and hazards.

I understand that part of the risk involved in undertaking any activity is relative to My Child's own state of fitness. I acknowledge that My Child has no physical condition that would prevent him/her from safely participating in these activities. I give my consent for emergency medical treatment rendered to My Child in the event of injury or illness and agree to be responsible for all costs associated with My Child's transportation and treatment.

I further expressly agree that this Release, Waiver of Liability, and Assumption of Risk is intended to be as broad and as inclusive as the laws of the State of Florida will allow, and that if any portion thereof is held to be invalid, it is agreed that the balance shall, notwithstanding the invalid portion, continue in full force and effect.

I further represent and state that I am not relying on any oral or written representation or statements made by the Releasees. I further agree that this Release, Waiver of Liability, and Assumption of Risk shall be governed by and interpreted in accordance with the laws of the State of Florida.

I understand and acknowledge that I am not permitted to give any kind of benefits to any FIU student athlete (e.g., free tickets, meals, shirts, etc.) as this will jeopardize the student athlete's eligibility. See NCAA Bylaws 16.02.3 (Extra Benefit) below:

**Title:** 16.02.3 - Extra Benefit.

An extra benefit is any special arrangement by an institutional employee or a representative of the institution's athletics interests to provide a student-athlete or the student-athlete's relative or friend a benefit not expressly authorized by NCAA legislation. Receipt of a benefit by student-athletes or their relatives or friends is not a violation of NCAA legislation if it is demonstrated that the same benefit is generally available to the institution's students or their relatives or friends or to a particular segment of the student body (e.g., international students, minority students) determined on a basis unrelated to athletics ability. *(Revised: 1/10/91)*

In signing this Release, Waiver of Liability, and Assumption of Risk, I acknowledge and represent (i) that I have read and understand it; (ii) that I sign it voluntarily and for full and adequate consideration, fully intending to be bound by the same; (iii) that I am giving up substantial rights by signing it; and (iv) that I am at least eighteen (18) years of age and fully competent. I understand that this is a legal document which is binding on me, my heirs, executors, administrators, and assigns and on those who may claim by or through me.

**I HAVE READ THE ABOVE RELEASE, WAIVER OF LIABILITY, AND ASSUMPTION OF RISK AGREEMENT AND, BY SIGNING IT, VOLUNTARILY AGREE TO BE BOUND BY IT, AND AGREE THAT IT IS MY INTENTION TO EXEMPT AND RELIEVE THE RELEASEES FROM LIABILITY FOR PERSONAL OR BODILY INJURY, PROPERTY DAMAGE, OR WRONGFUL DEATH CAUSED BY NEGLIGENCE OR ANY OTHER CAUSE OF ACTION.**

Parent or Legal Guardian for \_\_\_\_\_:

\_\_\_\_\_  
Name (Print)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date