

SPONSORSHIP AGREEMENT

THIS SPONSORSHIP AGREEMENT (the "Agreement") is entered into as of this 1st day of March, 2019 (the "Effective Date"), by and between the City of Panama City Beach, a Florida municipal corporation (the "CITY"); and Rotary Club of Panama City Beach, a _____, with a principal place of business at P.O. Box 9279, Panama City Beach, FL 32417 ("Sponsor").

WHEREAS, the CITY owns and operates the Frank Brown Park, Aquatic Center and Aaron Bessant Park Amphitheater (the "Recreational Facilities") where numerous community sports and entertainment events are held throughout the year, and it is the objective of the CITY to uniformly recognize those community sponsors who make those sports and entertainment Recreational Facilities and events possible; and

WHEREAS, Sponsor desires to provide cash and other consideration to the CITY in exchange for sponsorship recognition, and the CITY wishes to grant to Sponsor the sponsorship and ancillary benefits set forth in Exhibit A attached hereto (the "Sponsorship"), on the terms and conditions contained herein.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties agree as follows

1. Sponsor's Consideration. As consideration for the CITY's grant of the Sponsorship to Sponsor, Sponsor shall pay to the CITY a sponsorship fee in the amount of \$ 3,000.00 (the "Sponsorship Fee"). The City shall not recognize sponsor until the Sponsorship Fee is paid to the City in full. Payment of the Sponsorship Fee shall not be subject to offsets or deductions.
2. Sponsorship Benefits. For such consideration, Sponsor is hereby granted the Sponsorship benefits set forth in Exhibit A attached hereto.
3. Ownership and Control. Sponsor acknowledges that the CITY is the owner, organizer and operator of the Recreational Facilities(s) and that, as between the CITY and Sponsor, the CITY shall own all rights associated with the maintenance and promotion therewith, including, but not limited to, media exploitation rights of any kind, merchandise rights, and intellectual property rights (excluding Sponsor's Marks and any copyrightable materials supplied to the CITY by Sponsor). Sponsor also acknowledges that, subject to the rights granted to it in Exhibit A, as between Sponsor and the CITY, the CITY shall have sole and exclusive control over the Recreational Facilities(s) and all decisions by the CITY regarding all aspects of the Recreational Facilities(s) shall be final and controlling. Sponsor acknowledges and agrees that sponsorship conveys no rights to use the Recreational Facilities for sponsor's commercial activities not authorized in Exhibit A.
4. Term and Termination. The term of this Agreement shall commence as of the Effective Date and expire on December 1, 2019, unless earlier terminated pursuant to the terms hereof (the "Term"). Notwithstanding the foregoing, either party may terminate this Agreement only if the other party breaches any term or provision of this Agreement and such breach is not cured within thirty (30) days of the breaching party's receipt of written notice of the breach.
5. License Grants. Sponsor hereby grants to the CITY a United States, fully paid-up, royalty-free, limited, non-exclusive license to use certain of Sponsor's trademarks and logos (the "Sponsor's Marks") solely for the activities described and contemplated herein and as set forth on Exhibit A attached hereto; provided that all uses of Sponsor's Marks by the CITY shall be subject to Sponsor's prior written approval. The CITY acknowledges that Sponsor's Marks are trademarks of Sponsor and that Sponsor retains all rights in Sponsor's Marks. All uses of Sponsor's Marks by the CITY shall inure to Sponsor. The license granted hereunder to the CITY shall immediately expire upon the termination or expiration of this Agreement.
6. Return of Items. Upon the expiration or termination of this Agreement, (a) the CITY shall promptly (i) deliver to the Sponsor all items bearing the Sponsor's Marks produced or used hereunder or (ii) at the

Sponsor's request, destroy such items or obliterate the Sponsor's Marks therefrom and furnish Sponsor with written confirmation of such destruction or obliteration. Notwithstanding anything in this Agreement to the contrary, the CITY may include Sponsor's name and logo in its presentation packages and press releases regarding the business relationship for up to one year beyond the effective date of termination or expiration.

7. Indemnification; Limitation of Liability.

(a) The City hereby agrees to indemnify Sponsor for claims brought against Sponsor only to the extent that they are found to result from the sole negligence of the City, its governing body, or its employees. This indemnification shall not be construed to be an indemnification for the acts or omissions of third parties, independent contractors or third party agents of the City. This indemnification shall not be construed as a waiver of the City's sovereign immunity, and shall be interpreted as limited to only such traditional liabilities for which the City could be liable under the common law interpreting the limited waiver of sovereign immunity. An action may not be instituted on a claim against the City unless the claimant presents the claim in writing to the City Manager within three years after such claim accrued or the City Manager denies the claim in writing. For purposes of this paragraph, the requirements of notice to the City Manager and denial of the claim are conditions precedent to maintaining an action but shall not be deemed to be elements of the cause of action and shall not affect the date on which the cause of action accrues. Notwithstanding any other provisions of this paragraph, the value of this indemnification is limited to the maximum sum of \$200,00 as a result of all claims and judgments arising out of the same incident or occurrence, not to exceed the sum of \$100,000 for any claim or judgment or portions thereof. In addition, this indemnification shall be construed to limit recovery by the indemnified party against the City to only those damages caused by the City's sole negligence, and shall specifically exclude any attorney's fees or costs associated therewith.

(b) Sponsor shall indemnify, defend and hold harmless the CITY, its affiliates and subsidiaries, and their respective agents, employees, representatives, officers and directors from and against any and all claims, liabilities, lawsuits, actions, losses, costs, expenses or damages, including reasonable attorneys' fees and expenses, arising from, by any reason of, or in connection with Sponsor's breach of any representation, warranty or obligation under this Agreement or any act, omission or negligence of Sponsor relating to the performance of Sponsor's obligations to its employees or to third parties arising in connection with the activities contemplated by this Agreement.

(c) Notwithstanding any other provision of this Agreement, neither party will be liable to the other for consequential, indirect, incidental, punitive, or special damages of any kind unless (a) such party has engaged in willful misconduct or gross negligence or (b) such damages relate to a third party claim.

8. Representations and Warranties.

(a) Sponsor represents and warrants to the CITY that: (i) all promotional and other activities to be conducted by Sponsor hereunder shall be conducted in a safe and responsible manner in accordance with applicable local, state and federal laws and regulations, and in accordance with all third party agreements to which Sponsor is a party or by which it is bound; (ii) Sponsor is the authorized owner of the Sponsor's Marks and has the right to grant the CITY the license described herein and Sponsor's Marks do not violate or in any way infringe upon any interest or right (contractual, proprietary or other) of any third party; (iii) the execution, delivery and performance of this Agreement by Sponsor have been duly authorized by all necessary corporate or other action; (iv) it acknowledges that the CITY retains the right, at all times and at its sole discretion, to enter into additional sponsorship rights agreements with other individuals and entities; (v) it will use its best efforts to cooperate with the CITY and provide the CITY with all necessary assistance for the CITY's performance of its obligations under this Agreement; and (vi) none of Sponsor's promotional, marketing or advertising materials shall (A) be false, misleading or deceptive; (B) relate to illegal activity; (C) use explicit sexual material, obscene material or material harmful to minors; (D) advertise tobacco products or firearms; (E) include language which is obscene, vulgar or profane; (F) refers to instruments, devices, items, products or paraphernalia designed for use in connection with specific drug or sexual activities; or (G) depicts violence and/or anti-social behavior.

(b) The CITY represents and warrants to Sponsor that: (i) all promotional and other activities to be conducted by the CITY hereunder shall be conducted in a safe and responsible manner in accordance with applicable local, state and federal laws and regulations, and in accordance with all third party agreements to which the CITY is a party or by which it is bound; (ii) it is the authorized licensor of the CITY Marks and has the right to grant Sponsor the license described herein. The CITY Marks do not violate or in any way infringe upon any interest or right (contractual, proprietary or other) of any third party; and (iii) the execution, delivery and performance of this Agreement by the CITY has been duly authorized by the appropriate City officials or other action. EXCEPT AS EXPRESSLY SET FORTH HEREIN, THE CITY SPECIFICALLY DISCLAIMS AND MAKES ABSOLUTELY NO OTHER WARRANTIES, EXPRESS OR IMPLIED, CONCERNING THE RECREATIONAL FACILITIES(S) OR THE EVENTS, THEIR QUALITY, NON-INFRINGEMENT, PERFORMANCE, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

9. Miscellaneous.

(a) Notices. Any notices required or permitted to be given by either party to the other under this Agreement shall be given in writing and delivered as follows: (i) in person; (ii) by registered or certified mail, postage prepaid, return receipt requested, (iii) by a recognized overnight courier service, or (iv) by facsimile (with confirmation of transmission) in each case to the persons, addresses and numbers set forth below, or to such other persons, numbers and addresses as the parties may designate to each other from time to time. Notices shall be deemed effectively delivered as follows: (i) at the time of delivery for notices given in person; (ii) three (3) business days after dispatch if sent by registered or certified mail; and (iii) one business day after dispatch if sent by overnight courier or facsimile.

To the CITY:

The City of Panama City Beach
110 South Arnold Road
Panama City Beach, Florida 32413
Attn.: Mario Gisbert, City Manager
Jim Ponek, Parks and Recreation Director
Fax: () _____

To Sponsor:

Rotary Club of Panama City Beach
P.O.Box 9279
Panama City Beach, FL 32417
Phone: (850) 774-8410 850-249-0620
Fax: () _____ Email: jhinton@innovationsfeu.org

(b) Entire Agreement. This Agreement, including the exhibits attached hereto, constitutes the entire agreement between the parties on the subject matter hereof, and all prior or contemporaneous agreements of the parties, whether oral or written, shall be deemed merged herein. This Agreement may not be modified or amended except by an instrument in writing duly executed by an authorized officer or member of the party to be charged.

(c) No Waiver. The failure of either party to enforce any of said party's rights under this Agreement shall not be deemed a continuing waiver and said party may, within such time as provided by applicable law, enforce any and all rights.

(d) Assignment. This Agreement is not assignable by any of the parties hereto without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed.

(e) Counterparts. This Agreement may be executed in counterparts, which taken together shall constitute one Agreement. Signatures received by facsimile shall be the equivalent of originals.

(f) No Joint Venture. This Agreement shall not be deemed to create any joint venture, partnership or agency relationship between the parties. It is understood that each party to this Agreement shall be independent of the other and that neither party shall have the right or authority to bind the other party. Nothing contained in this Agreement shall be construed to be for the benefit of or enforceable by any third party, including but not limited to, any creditor of either party.

(g) Severability. If any term, provision, covenant or condition of this Agreement is held to be invalid, void or unenforceable, the remainder hereof shall remain in full force and effect.

(h) Force Majeure. In the event either party is unable to carry out its material obligations under this Agreement by reason of "force majeure" (as defined below) those obligations will be suspended during the continuance of the force majeure, provided the cause of the force majeure is remedied by the disabled party as quickly as practicable. The term "force majeure" means any event caused by occurrences beyond a party's reasonable control, including, but not limited to, acts of God, fire, flood, non-appropriation, war, acts of terrorism or Federal, state, city or local government regulations, policies or actions enacted or taken subsequent to the execution of this Agreement. If the force majeure extends for more than 30 days and if any affected element of the Recreational Facilities(s) cannot be reasonably rescheduled, then Sponsor and/or the CITY, as the case may be, shall be entitled to terminate this Agreement upon written notice to the other party. No party shall be liable to any other party for lost profits, special, incidental or consequential damages incurred in the event of termination of this Agreement due to a force majeure event.

(i) Governing Law; Venue. This Agreement shall be governed by and construed in accordance with the internal laws of the State of Florida, without giving effect to any choice of law provision or rule (whether of the State of Florida or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Florida. In the event any dispute, suit, action or proceeding arises with respect to this Agreement, the parties irrevocably agree that it shall be brought in the state or Federal courts located in Bay County, Florida, and the parties hereto irrevocably submit to and accept the personal jurisdiction of those courts for the purpose of any such suit, action or proceeding and waive all other possible forums and any and all objections to such jurisdiction or venue that they may have under the laws of any state or country, including, without limitation, any argument that jurisdiction, situs and/or venue are inconvenient or otherwise improper. Each party further agrees that process may be served upon such party in any manner authorized under the laws of the United States or Florida, and waives any objections that such party may otherwise have to such process. In the event of any litigation arising out of, in connection with, or related to this Agreement, the prevailing party shall be entitled to receive from the non-prevailing party all reasonable fees and expenses of counsel for the prevailing party.

(j) Waiver of Jury Trial. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE MATTERS CONTEMPLATED HEREBY, PROVIDED, HOWEVER, THAT THE PARTIES HERETO AGREE THAT SUCH WAIVER SHALL NOT BE DEEMED TO CONSTITUTE A WAIVER OF ADJUDICATION BY A COURT HAVING APPROPRIATE JURISDICTION

(k) Remedies. All remedies available to either party for breach of this Agreement are cumulative and may be exercised concurrently or separately. The exercise of one remedy will not be deemed an election of such remedy to the exclusion of other remedies. In the event of any breach or threatened breach of the provisions of this Agreement, the remedies at law of the non-breaching party will be inadequate and such party will be entitled to its remedies at law.

(l) Survival. Any and all warranties, provisions, rights and obligations of the parties herein described and agreed to be performed subsequent to the termination of this Agreement shall survive the termination of this Agreement.

(m) Review. The parties and their respective counsel have reviewed this Agreement in its entirety and acknowledge that each has had a full opportunity to negotiate the Agreement's terms. Therefore, the parties expressly waive any and all applicable common law and statutory rules of construction that any provision of this Agreement should be construed against the Agreement's drafter, and agree and affirm that the Agreement and all provisions thereof shall in all cases be construed as a whole, according to the fair meaning of the language used.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

THE CITY OF PANAMA CITY BEACH

By: _____
Mario Gisbert, City Manager

ATTEST:

By: _____
Jo Smith, City Clerk

SPONSOR:

ROTARY CLUB OF PANAMA CITY BEACH

By: _____

Name: JEREMY HINTON

Title: PRESIDENT-ELECT

Exhibit A

General Sponsorship Benefits

2019 Miracle League Sponsorship **\$3,000.00 Total**

\$1,500 for the Spring League and \$1,500 for the Fall league

Miracle Baseball League will be called the Panama City Beach Rotary Miracle League

Panama City Beach Rotary Logo on all Team T-Shirts

(2) 4x3 ft banners provided by the PCB Parks and Recreation Department to be located at Miracle Field Outfield Fence and Home Plate Fence.

(Panama City Beach Rotary Club needs to provide the logo).

Panama City Beach Rotary Logo on all schedules and paperwork for the league.

Thank You