

STATE OF TEXAS
COUNTY OF COLLIN

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STEPHEN G. TERRELL RECREATION CENTER
USE AGREEMENT

This Stephen G. Terrell Recreation Center Use Agreement (“Agreement”) is made and entered as of the Effective Date by and between the City of Allen, a Texas home rule municipality (“City”), and the Allen Sports Association, Inc., a Texas Nonprofit Corporation (“ASA”) (each a “Party” and collectively the “Parties”), acting by and through their respective authorized representatives.

WITNESSETH:

WHEREAS, City intends to cause the design and construction of the Stephen G. Terrell Recreation Center (as defined below), preliminary plans for which includes the Field House (as defined below); and

WHEREAS, ASA has offered to pay to City the Financial Contribution (as defined below) in exchange for City’s agreement to grant to ASA a non-exclusive priority use of the competitive gym space in the Field House for youth-sports programs for a period of twenty-five (25) years (the “Usage Rights”); and

WHEREAS, the Parties desire to enter this Agreement to set forth the obligations of the Parties regarding ASA’s payment of the Financial Contribution to City in exchange for the grant of the Usage Rights;

NOW, THEREFORE, in consideration of good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

**Article I
Definitions**

Wherever used in this Agreement, the following terms shall have the meanings ascribed to them:

“Bankruptcy or Insolvency” shall mean the dissolution or termination of a Party’s existence as a going business, insolvency, appointment of a receiver for any part of such Party’s property where such appointment is not terminated within ninety (90) days after such appointment is initially made, any general assignment for the benefit of creditors, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against such Party where such proceeding is not dismissed within ninety (90) days after the filing thereof.

“Commencement Date” means the later of: (i) the date City has issued a certificate of occupancy for the Recreation Center; and (ii) the date the Recreation Center is open for public use.

“Commencement of Construction” means that: (i) the plans have been prepared and all approvals thereof required by applicable governmental authorities have been obtained for

construction of the Recreation Center; (ii) all necessary permits for the construction of the Recreation Center pursuant to the respective plans therefore have been issued by all the applicable governmental authorities; and (iii) clearing and/or grading of the land and the construction of the vertical elements (such as foundations) of the Recreation Center has commenced.

“Completion of Construction” means that: (i) substantial completion of the Recreation Center; and (ii) City has issued a certificate of occupancy for the occupancy of the Recreation Center by City.

“Court Hour”, for purposes of calculating the amount of Gym Rental Fees due, means the use of one playing court within the Field House for a period of one hour.

“Effective Date” means the date on which this Agreement bears the signatures of authorized representatives of all of the Parties, whether signed on the same document or in duplicate counterparts.

“Expiration Date” means the day prior to the date of the twenty-fifth (25th) anniversary of the Commencement Date.

“Field House” means an area within the Recreation Center consisting of eight (8) middle school basketball or volleyball courts capable of being converted to four (4) full-sized high school basketball courts and associated lobby space constructed and equipped in accordance with plans approved by City.

“Financial Contribution” means Three Million Dollars (\$3,000,000.00) to be paid by ASA to City as prepaid fees for the Usage Rights to be paid as set forth herein.

“Force Majeure” means any contingency or cause beyond the reasonable control of a Party including, without limitation, acts of God or the public enemy, war, riot, civil commotion, insurrection, government or de facto governmental action or inaction, incidence of disease or other illness that reaches outbreak, epidemic, or pandemic proportions or other similar causes affecting the area in which the Recreation Center is to be located that result in a reduction of labor force or work stoppage in order to comply with local, state, or national disaster orders (unless caused by the intentionally wrongful acts or omissions of the Party), fires, explosions or floods, strikes, slowdowns or work stoppages.

“Recreation Center” means the Stephen G. Terrell Recreation Center Recreation Center containing approximately 149,000 square feet of space constructed on City-owned property generally located on Exchange Parkway, south of Ridgeview Drive, in Allen, Texas, inclusive of landscaping, parking, and other related facilities, in accordance with plans approved by City and which is planned to be opened in Spring 2023 subject to City securing the required funding for the design and construction of said facility.

“Usage Rights” means the non-exclusive priority use of the Field House for youth-sports programs by ASA as more fully defined in Article IV, below.

Article II Term; Termination

2.1 Term. The term of this Agreement shall begin on the Effective Date and continue until its termination at 11:59:59 p.m. on the Expiration Date unless sooner terminated as provided herein.

2.2 Termination. This Agreement shall terminate prior to the Expiration Date upon any one or more of the dates:

(a) on the date set forth in a written agreement of the Parties terminating this Agreement;

(b) upon the termination date set forth in a written notice by either Party to the other Party in the event the other Party breaches any of the terms or conditions of this Agreement and such breach is not cured within thirty (30) days after receipt of written notice thereof;

(c) upon the date of termination set forth in a written notice by City to ASA, if ASA suffers an event of Bankruptcy or Insolvency, dissolves or ceases to operate, but in no case earlier than allowed by law;

(d) upon the date of termination set forth in a written notice by City to ASA, if ASA fails to timely pay the Financial Contribution and any installment thereof, and such payment is not received by City on or before the fifteenth (15th) business days after delivery of written notice of said notice by City;

(e) on the date provided in Section 3.2;

(f) on the date provided in Section 3.3(b).

2.2 In the event of termination by ASA for an uncured default by City that occurred after the Commencement Date the City shall within ninety (90) days after the date of such termination refund a prorated amount of the Financial Contribution received by City as of the date of such termination (the "Prorated Refund"). The amount of the Prorated Refund shall be calculated as follows: (the amount of the Financial Contribution received as of the date of such termination) x the fraction (the numerator of which is the number of full years remaining under the Term and the denominator of which is 25). The obligation of City to provide the Prorated Refund shall be subject to the availability of funding from City revenue.

Article III Recreation Center

3.1 Construction of the Recreation Center.

(a) Subject City securing sufficient funding for design and construction of the Recreation Center and delays resulting from events of Force Majeure, City intends to: (1) cause Commencement of Construction of the Recreation Center to occur not later than twelve (12)

months after the Effective Date; and intends to (2) cause Completion of Construction of the Recreation Center to occur on or before May 31, 2023.

3.2 Field House Plan. City and ASA shall work cooperatively to mutually develop a plan for the Field House with the understanding that additional Field House gym space (i.e. four (4) additional middle school gyms) may be developed in a second phase and that no funding has been identified or secured for a second phase (i.e. four (4) additional middle school gyms) of the Field House (the "Field House Plan"). ASA shall have an opportunity to provide input on the final design of the Field House including related equipment, fixtures and finish-out; provided, however, City shall have final approval of the design and equipping of the Field House and the Recreation Center. In the event the Parties are unable to agree on the contents of a Field House Plan on or before the date City awards a contract for the design of the Recreation Center, either Party may terminate this Agreement by written notice to the other Party delivered not later than ten (10) days after City awards such design contract. In the event of such termination by ASA, City shall refund any portion of the Financial Contribution paid to City as of the date of such termination not later than five (5) business days after receipt of ASA's notice of termination and neither Party shall have any further obligation under this Agreement. The Field House Plan, as mutually approved by the Parties shall be integrated into the design and construction plans for the Field House and the Recreation Center.

3.3 Financial Contribution.

(a) *Use of Financial Contribution.* ASA agrees the Financial Contribution may be used by City to pay City's costs for the design and construction of the Field House and is non-refundable except as otherwise provided herein. The Parties acknowledge and agree that the Financial Contribution is paid by ASA in exchange for the Usage Rights. Neither this Agreement, nor the payment of the Financial Contribution by ASA pursuant to this Agreement grants or conveys any right, title or ownership of a fee simple, leasehold, or easement interest to ASA in City's property, the Recreation Center, or the Field House, it being understood, acknowledged, and agreed by ASA that the Recreation Center, the Field House, the City-owned property on which they are constructed, shall at all times be owned and operated by the City.

(b) *Financial Worthiness.* ASA shall provide to City satisfactory written evidence of the sources of and availability of the Financial Contribution not later than five (5) business days after the Effective Date. This Agreement will automatically terminate without notice in event ASA fails to deliver to City written evidence to the reasonable satisfaction of City of the source and availability of the Financial Contribution.

(c) *Financial Contribution Payment.* ASA shall pay the Financial Contribution to City in two (2) equal installments of One Million Five Hundred Thousand Dollars (\$1,500,000.00) each. The first installment of the Financial Contribution shall be paid by ASA to City not later than five (5) business days after the Effective Date. The second installment of the Financial Contribution shall be paid by ASA to City on or before the date of Commencement of Construction of the Recreation Center as set forth in written notice by City to ASA, but in no case later than five (5) business days after City delivers such notice of Commencement of Construction to ASA.

(d) *Balance of Costs.* City shall be responsible for obtaining the balance of the funds required to pay for the design and construction of the Recreation Center and the Field House in excess of the amount of the Financial Contribution.

Article IV Usage Rights

4.1 Operation of the Recreation Center. The Recreation Center shall be operated by City subject to the Usage Rights. City, at City's sole discretion, shall control and approve the scheduling for the use of the Field House for any time periods that are not designated as ASA Priority Use as defined in Section 4.2, below.

4.2 ASA Priority Use. The Parties agree that ASA shall receive at least 212 court hours of Field House use each calendar week, of which 164 hours court hours per calendar week shall constitute "ASA Priority Use". Additionally, the Parties agree that at least 48 court hours per calendar week be made available to ASA.

- (a) ASA will have priority use of the entire Field House gym space on Saturdays, from 8:00 AM – 10:00 PM, at least 40 weeks per calendar year;
- (b) ASA will have priority use of ½ of the courts in the Field House gym space on Fridays, from 5:00 PM - 9:00 PM, at least 26 weeks per calendar year;
- (c) ASA will have priority use of ½ of the Field House gym space on Sundays, from 10:00 AM - 7:00 PM, at least 26 weeks per calendar year; and
- (d) The balance of at least 48 court hours ASA Priority Use per calendar week shall be mutually determined by the Parties.

The Parties agree that the number and schedule of court hours per calendar week reserved for ASA Priority Use and non-priority use shall be reviewed at least annually and adjusted based on historical use and the use anticipated for at least the twelve (12) months following such review. The Parties acknowledge and agree if ASA does not use any of the Priority Use court hours ASA shall not be entitled to any credit for such "unused court hours" or be entitled to use such "unused court hours" at any other time. City is not obligated to credit or allow ASA to the use the "unused court hours" at any other time or period.

4.3 Holiday Season. ASA is granted Non-Exclusive Field House gym space during the holiday season (the periods of holiday season to be determined by City, but under no circumstance will such use reduce ASA Priority Use under Section 4.2, school breaks and/or summer season for seasonal practices. Times and space allocation shall be determined by City and may be shared. Spatial allocations shall be determined solely by City, upon receipt of a written request by ASA. ASA requests for holiday season practices and approvals shall be submitted by ASA on an annual basis to City not later than January 1 of each calendar year and approved or rejected by City not later than fourteen (14) days after receipt of the request by ASA.

4.4 Recreation Center Hours of Operation. The Parties acknowledge and agree the times for ASA's use of the Field House set forth herein are based on the anticipated hours of operation for the Recreation Center, and that the Usage Rights are subject to the Recreation Center hours of operation as approved by the City, from time to time.

4.5 Release of City Use. City shall provide ASA written notice of any City unscheduled or unutilized competitive gym space in the Field House as soon as City reasonably knows or becomes aware of such unscheduled use (the "City Usage Notice") and provide ASA an option to use all or portions of such available space for ASA purposes ("ASA Usage Option"). Not later than five (5) business days after receipt of a City Usage Notice, ASA shall deliver written notice to City of ASA's intent to exercise the ASA Usage Option, which notice shall include the dates and times of such use ("ASA Option Exercise Notice"). ASA shall only have use of such unscheduled or unutilized competitive gym Field House space if ASA timely provides the ASA Option Exercise Notice to City. Failure to timely provide to City with the ASA Option Exercise Notice shall result in such unscheduled or unutilized competitive gym Field House space being retained and controlled by City.

4.6 Release of ASA Use. ASA shall provide City written notice of any ASA unscheduled or unutilized competitive gym space in the Field House as soon as ASA reasonably knows or becomes aware of such unscheduled use (the "ASA Usage Notice") to provide City an option to make all or portions of such unused areas of Field House space available for use by City and others ("City Usage Option"). Not later than five (5) business days after receipt of an ASA Usage Notice, City shall provide written notice to ASA of its intent to exercise the City Usage Option, which notice shall include the dates and times of such use ("City Option Exercise Notice"). City shall only have use of such unscheduled or unutilized competitive gym Field House space if City timely provides the City Option Exercise Notice to ASA notice of its exercise of the City Usage Option. City's failure to timely to provide to ASA with the City Option Exercise Notice shall result in such unscheduled or unutilized competitive gym Field House space being retained by ASA subject to the Usage Rights.

4.7 Repair and Maintenance of Recreation Center. City shall have the right, upon reasonable notice (24-hour notice in the event of an emergency or event of Force Majeure) to ASA, to suspend, cancel or modify any ASA usage or portion thereof, as needed in order to permit City to perform any repairs, renovations, and/or maintenance of the Recreation Center of Field House. City agrees to use reasonable efforts to schedule work that is not necessary to preserve the health and safety of people using the Recreation Center and/or Field House or to prevent damage to City's property to schedule such work to avoid as much as reasonably possible any disruption in ASA's scheduled use of the Recreation Center and/or Field House.

4.8 Gym Rental Fees. ASA agrees to pay to City gym rental fees as set forth herein ("Gym Rental Fees"). The Gym Rental Fees on the Commencement Date and continuing thereafter until September 30 of the fifth (5th) calendar year following the Commencement Date shall be \$15 per Court Hour. Thereafter the Gym Rental Fees shall automatically increase on an annual basis based on the Consumer Price Index – All Urban Consumers - All Items (not seasonally adjusted) for the Dallas-Fort Worth, TX Area as published by the U.S. Department of Labor Bureau of Labor Statistics ("CPI Index") published in the calendar year prior to the calendar year in which the increase becomes effective. In addition, the City may increase the

Gym Rental Fees to reasonable discounted market rental rates based on a market study, such increase not to exceed Four Dollars (\$4.00) per Court Hour, beginning October 1 of the fifth calendar year following the Commencement Date provided City gives ASA written notice at least one year prior notice thereof. ASA shall pay the Gym Rental Fees to City on a calendar quarter basis set forth in Section 4.19 (including ASA Priority Usage and usage allocated to or scheduled or reserved for ASA whether used or not) occurring during the current calendar quarter. If ASA usage for a prior calendar quarter exceeds the number of Court Hours for which Gym Rental Fees were paid for said calendar quarter, ASA shall include Gym Rental Fees in the amount equal to the then current Gym Rental Fees times the number of additional Court Hours actually used by ASA during said calendar quarter.

4.9 Concessions. The Parties acknowledge and agree that City shall control all food, beverage and retail concessions in and at the Recreation Center, and all revenues therefrom shall be paid to City. City shall collect all rental or usage fees associated with the use the Recreation Center and the Field House by any person, partnership, corporation, organizations or other legal entity not related to ASA. ASA may contract with City for concession services for tournaments and other ASA sponsored events at the Field House on a case by case basis.

4.10 Storage Space. City shall provide ASA with reasonable storage space in the Recreation Center for ASA's equipment and supplies used for ASA leagues, programs and business operations located at the Recreation Center.

4.11 Recreation Center Maintenance. City will be responsible for the total operation, and cleaning, custodial care, repair, renovation, maintenance and capital replacement of the Recreation Center including, but not limited to, parking, landscaping, and other exterior areas associated with the Recreation Center.

4.12 Recreation Center Additional Usage. Notwithstanding anything in this Agreement to the contrary, ASA may contract with City to use portions of the Recreation Center (outside of the Field House area) for tournaments, activities and other events when not in use by City subject to City's then existing reservation and use policies for the Recreation Center.

4.13 Usage Rights Non-Assignable. ASA may not assign, sublease or sub-license all or any portion of the ASA Usage Rights to any person, partnership, corporation, organization or other legal entity without City's prior written approval.

4.14 Programing Activities. ASA Usage Rights is solely for programs or activities that are directly associated with youth sports programs. ASA may not schedule, or program use of the Field House for any programs or activities that are not directly associated with existing youth programs (including, without limitation extensions of such existing youth programs) and services without City's prior written approval.

4.15 Parties Programing not to Compete. Neither Party will provide programs or services in their respective program areas that are in direct competition with the other Party. ASA's direct program scope is defined as youth competitive sports leagues. City's scope of program areas covers all areas (including youth developmental, recreational and skill-based programs and all other programming categories) other than youth competitive sports leagues.

4.16 Sponsorships. Subject to prior written approval of City, ASA may sell sponsorships for the Field House, provided the sponsors comply with guidelines established by City. No sponsor advertising or signs shall be permitted in or on the Recreation Center or other City property without City's prior written approval.

4.17 ASA Fund-Raising. ASA may conduct capital campaigns to raise funds for improvements to or equipping of the Field House provided such activities are previously coordinated with City to minimize the impact on City's current or potential sponsors and fund-raising activities being planned or conducted by City or others.

4.18 Equipment and Supplies. ASA will be responsible for the purchase and maintenance of all equipment and program supplies to be used or consumed by ASA that are not part of the permanent Recreation Center.

4.19 Usage and Other Fees. City shall submit a detailed quarterly itemized statement of Gym Rental Fees and other charges and fees due City from ASA for the then ending calendar quarter. ASA shall pay such quarterly statements within thirty (30) days after receipt.

4.20 Use During Disaster. Notwithstanding anything to the contrary herein, City may suspend ASA's use of the Recreation Center and/or Field House during any period in which and local, state, or federal disaster has been declared and use of the Recreation Center or any portion thereof for temporary shelter or other emergency operations is needed in accordance with applicable local, state, or federal emergency operations or disaster plans.

4.21 Damage. ASA shall be responsible for any damage (including costs of destruction, repairs and replacement) to the Recreation Center and its contents caused by ASA, its programs, employees, agents, invitees and participants, reasonable wear and tear excepted. In the event of such damage, City shall provide ASA with a detailed invoice for the costs of such repair and/or replacement. ASA shall pay the amount of such invoice to the City within thirty (30) days after receipt thereof.

Article V Miscellaneous

5.1 Binding Agreement; Assignment. The terms and conditions of this Agreement are binding upon the successors and permitted assigns of the Parties. ASA may not assign this Agreement without City's prior written consent. Nothing herein shall be construed as prohibiting City from entering an agreement with a third-party for the management and operation of the Recreation Center, which agreement shall not require the consent of ASA.

5.2 INDEMNIFICATION. CITY SHALL NOT BE LIABLE FOR ANY LOSS, PROPERTY DAMAGE, OR PERSONAL INJURY INCLUDING DEATH OF ANY KIND OR CHARACTER TO ANY PERSON OR PROPERTY ARISING FROM ANY OCCURRENCE AT THE RECREATION CENTER OR FROM THE USE OF THE RECREATION CENTER BY ASA, ITS OFFICERS, EMPLOYEES, AGENTS, PARTICIPANTS, MEMBERS, AND INVITEES (COLLECTIVELY "ASA") DURING THE TERM OF THIS AGREEMENT. ASA

HEREBY WAIVES ALL CLAIMS AGAINST CITY, ITS ELECTED AND APPOINTED OFFICERS, AGENTS AND EMPLOYEES (COLLECTIVELY REFERRED TO IN THIS SECTION AS "CITY") FOR DAMAGE TO ANY PROPERTY OR PERSONAL INJURY INCLUDING DEATH OF, ANY PERSON IN, UPON, AT THE RECREATION CENTER ARISING AT ANY TIME AND FROM ANY CAUSE OTHER THAN THE SOLE NEGLIGENCE OR WILLFUL MISCONDUCT OF CITY. ASA EXPRESSLY ASSUMES ALL RISKS OF INJURY OR DAMAGE TO PROPERTY AND PERSONS RESULTING FROM THE CONDITION OF THE RECREATION CENTER, AND ASA'S USE OF THE RECREATION CENTER AND AGREES TO DEFEND, INDEMNIFY AND SAVE HARMLESS CITY FROM AND AGAINST ANY AND ALL LIABILITIES, DAMAGES, CLAIMS, SUITS, COSTS (INCLUDING COURT COSTS, REASONABLE ATTORNEYS' FEES, AND COSTS OF INVESTIGATION) AND ACTIONS OF ANY KIND BY REASON OF INJURY TO OR DEATH OF ANY PERSON OR DAMAGE TO OR LOSS OF PROPERTY ARISING FROM THE CONDITION OF THE RECREATION CENTER AND ASA'S USE OF THE RECREATION CENTER PURSUANT TO THIS AGREEMENT OR BY REASON OF ANY ACT OR OMISSION ON THE PART OF ASA, ITS OFFICERS, DIRECTORS, SERVANTS, AGENTS, EMPLOYEES, REPRESENTATIVES, MEMBERS, PARTICIPANTS, AND INVITEES (EXCEPT WHEN SUCH LIABILITY, CLAIMS, SUITS, COSTS, INJURIES, DEATHS OR DAMAGES ARISE FROM OR ARE ATTRIBUTED TO THE SOLE NEGLIGENCE OF CITY). IF ANY ACTION OR PROCEEDING SHALL BE BROUGHT BY OR AGAINST CITY RELATING TO ANY SUCH LIABILITY OR CLAIM, ASA, ON NOTICE FROM CITY, SHALL DEFEND SUCH ACTION OR PROCEEDINGS AT ASA'S EXPENSE, BY OR THROUGH ATTORNEYS REASONABLY SATISFACTORY TO CITY. ASA'S OBLIGATIONS UNDER THIS SECTION SHALL NOT BE LIMITED TO THE LIMITS OF COVERAGE OF INSURANCE MAINTAINED OR REQUIRED TO BE MAINTAINED BY ASA PURSUANT TO THIS AGREEMENT. THIS PROVISION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

5.3 Authorization. Each Party represents that it has full capacity and authority to grant all rights and assume all obligations that are granted and assumed under this Agreement.

5.4 Insurance.

(a) During the term of this Agreement, ASA shall maintain in full force and effect the following insurance:

- (1) a commercial general liability insurance policy for bodily injury, death and property damage insuring against all claims, demands or actions relating to the use of the Recreation Center and Field House by ASA pursuant to this Agreement with a minimum combined single limit of not less than \$1 Million Dollars (\$1,000,000.00) per occurrence for injury to persons (including death), and for property damage with an aggregate of not less than \$2 Million Dollars (\$2,000,000.00) including coverage for advertising products coverage;
- (2) an automobile liability insurance policy covering any vehicles owned and/or operated by ASA, its officers, agents, and employees with a

minimum of \$1 Million Dollars (\$1,000,000.00) combined single limit;
and

(3) statutory Worker's Compensation Insurance covering all ASA employees.

(b) All insurance shall be endorsed to contain the following provisions

(1) name the City, its elected and appointed officers, agents and employees as additional insureds as to all applicable coverage with the exception of Workers Compensation Insurance;

(2) provide for at least thirty (30) days prior written notice to the City for cancellation, non-renewal, or reduction of coverage limits of the insurance; and

(3) provide for a waiver of subrogation against City for injuries, including death, property damage, or any other loss to the extent the same is covered by the proceeds of insurance.

(c) All insurance companies providing the required insurance shall be lawfully authorized to issue insurance of the types and amounts required by this Agreement, transact business in Texas, shall be rated at least "A" by AM Best or other equivalent rating service, and shall be satisfactory to City.

(d) ASA shall deliver certificates of insurance and policy endorsements for each insurance policy required herein to City, in a form reasonably satisfactory to City, prior to the Commencement Date, and upon written request by City.

5.5 Documentation. Not later than thirty (30) days after the Effective Date, ASA shall deliver to City a copy of the current ASA's rules and regulations, the most recent annual audited and year-to-date unaudited financial reports, charters, constitution, and bylaws, and annually thereafter with names, addresses, and phone numbers of all ASA officers and board members.

5.6 Notice. Any notice required or permitted to be delivered pursuant to this Agreement, if mailed, shall be deemed received three (3) days thereafter sent by United States Mail, postage prepaid, certified mail, return receipt requested, addressed to the Party at the address set forth below, or, if sent by courier or otherwise hand delivered, on the day delivered to the receiving Party.

If intended for the City, to:

Eric Ellwanger
City Manager
Allen City Hall
One Allen Civic Plaza
305 Century Parkway
Allen, Texas 75013

With a copy to:

Peter G. Smith
Nichols, Jackson, Dillard,
Hager & Smith, L.L.P.
1800 Ross Tower
500 North Akard
Dallas, Texas 75201

If intended for ASA:

Attn: Ken Geest, Executive Director
Allen Sports Association, Inc.
950 E. Main Street
Allen, Texas 75002

5.7 Entire Agreement. This Agreement is the entire agreement between the Parties with respect to the subject matter covered in this Agreement. There is no other collateral oral or written agreement between the Parties that in any manner relates to the subject matter of this Agreement.

5.8 Governing Law. The Agreement shall be governed by the laws of the State of Texas; and venue for any action concerning this Agreement shall be in the State District Court of Collin County, Texas. The Parties agree to submit to the personal and subject matter jurisdiction of said court.

5.9 Amendment. This Agreement may be amended by the written agreement of the Parties.

5.10 Legal Construction. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect other provisions, and it is the intention of the Parties that in lieu of each provision that is found to be illegal, invalid, or unenforceable, a provision be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

5.11 Recitals. The recitals to this Agreement are incorporated herein.

5.12 Counterparts. This Agreement may be executed in identical counterparts. Each of the counterparts shall be deemed an original instrument, but all the counterparts shall constitute one and the same instrument.

5.13 Survival of Covenants. Any of the representations, warranties, covenants, and obligations of the parties, as well as any rights and benefits of the parties, pertaining to a period following the termination of this Agreement shall survive termination.

(Signature page to follow)

SIGNED AND AGREED on this _____ day of _____, 2020.

CITY OF ALLEN, TEXAS

By: _____
Eric Ellwanger, City Manager

APPROVED AS TO FORM:

By: *Peter G. Smith*
Peter G. Smith, City Attorney

SIGNED AND AGREED on this 7 day of August, 2020.

ALLEN SPORTS ASSOCIATION, INC

By: *Ken Geest*
Ken Geest, Executive Director