

AGREEMENT

THIS AGREEMENT, made and entered into this 16th day of March, 2007 by and between the **CITY OF DELRAY BEACH, FLORIDA**, a municipal corporation (hereinafter referred to as "**CITY**"), and **PLAYERS INTERNATIONAL MANAGEMENT, INC.**, (hereinafter referred to as "**PIM**").

WITNESSETH:

WHEREAS, the **CITY** owns and controls certain property upon which is located the Delray Beach Tennis Center and the Delray Swim & Tennis Club, hereinafter referred to as the "Site"; and,

WHEREAS, **PIM**, is desirous of using the Site for the purpose of holding four USTA junior tennis tournaments (Events) annually in the months of April, July September and October; and,

WHEREAS, the **CITY** believes that holding the USTA junior tennis tournaments at the Site will grant the citizenry of Delray Beach many tangible and intangible benefits; and,

WHEREAS, this Agreement shall take the place of the current Agreement between the parties dated October 4, 2006, along with any amendments thereto, shall be null and void upon the effective date of this Agreement.

NOW, THEREFORE, in consideration of the mutual premises, covenants and agreements contained herein, the parties hereby covenant and agree as follows:

1. The recitations set forth above are incorporated herein.
2. **LICENSE; TERM.**

The **CITY** hereby grants to **PIM** the non-exclusive right and privilege to stage and use the Site for the Events. **PIM'S** rights shall cover an additional 1 day period before the commencement of each Event to set up necessary facilities and an additional day after the Event to remove necessary facilities. The **CITY** further grants to **PIM** the right and privilege to stage the Events at the Site through September 30, 2012. **PIM** agrees that the future Events shall be held as set forth on the document, attached hereto as

Exhibit "A", and that all future Events shall be held during the month as set forth on Exhibit "A", unless granted a date change by the **CITY**. **PIM** shall send written notification to the **CITY** of the exact date of the Events at least 180 days prior to the date of the Event. At least 300 days prior to the expiration of the term the parties shall meet to discuss the renewal of this Agreement and upon mutual consent this Agreement may be renewed for two additional 5 year terms.

3. LICENSE AGREEMENT ONLY.

This agreement between the **CITY** and **PIM** is a license agreement, not a lease or purchase agreement, and should be construed by a court of competent jurisdiction to be a license agreement only. Furthermore, this License Agreement does not grant nor is **PIM** receiving hereunder any rights to any real property of the **CITY** nor any property interests except as set forth in this agreement.

4. FACILITIES AND SERVICES PROVIDED BY CITY.

(a) Unless otherwise herein specified, **CITY** shall be responsible for, or agrees to provide, at no charge to **PIM** the following facilities and production assistance in connection with the conduct of and staging of the Event:

- (i) tennis courts, as mutually agreed,
- (ii) preparation and maintenance of the courts throughout the Event, as mutually agreed upon by both parties;
- (iii) nets, net posts, single sticks and umpires chairs;
- (iv) adequate space for and operation of concessions, retail booths, etc. (**PIM** shall place and operate the concessions and retain all revenues from its concessions and retail booths);
- (v) restroom facilities and supplies;
- (vi) additional courts for pro-am, clinics, etc., as mutually agreed;
- (vii) the use of locker rooms, as mutually agreed;
- (viii) access to utilities to include but not be limited to water/sewer, electric/lighting;

- (ix) CITY shall have the first right to provide racquet stringing;
- (x) CITY shall have the first right to provide teaching programs to participants.

(b) CITY agrees to pay to PIM the amount of \$150,000.00, in monthly installments beginning each October 1 and ending September 30 of the following year, for the Events being held as shown on Exhibit "A". PIM acknowledges that it has received funds in the amount of \$32,435.40 from the CITY and an amount of \$32,435.40 (6 months @ \$5,405.90) remains owed to PIM it relates to the prior Agreement dated October 4, 2006 between the parties. The CITY will pay to PIM an additional amount of \$12,500.00, starting April 1, 2007, resulting in six (6) monthly amounts (\$17,905.90) to be paid on the first of each month through September 1, 2007. For each year thereafter, starting on October 1, 2007, the *annual* amount paid by the CITY shall increase annually in accordance with the All Urban Consumers-United States Consumer Price Index (CPI) as reported by the United States Government Bureau of Labor Statistics and shall be paid in twelve (12) equal monthly installments payable on the first day of each month from October 1 to September 1 of the following year.

5. STAGING AND PRODUCTION OF THE EVENT.

The organization, staging, and conduct of the Events will be the responsibility of PIM, which responsibilities shall include the following:

- (a) Obtaining an Event Director, all personnel involved in each Event, and the Event participants;
- (b) Administering the entire Event;
- (c) Setting up each Event on-site and handling all on-court activities of the Event;
- (d) Soliciting sponsorship sales and television rights sales for each Event;
- (e) Handling promotions, advertising, sales, public relations, and program production for each Event;

- (f) **PIM** shall be responsible for site clean-up of restrooms and for onsite garbage pick-up; and
- (g) **PIM** shall pay for all dumpsters needed for the Events.

6. ACKNOWLEDGMENT BENEFITS.

In acknowledgment of the services provided by the **CITY** in Paragraph 4 hereof, **PIM** agrees that **CITY** will have the following acknowledgment rights in relation to the Events, subject to the provisions of this Agreement:

- (a) The name of the Events may change, however, the phrase "hosted by the City of Delray Beach" shall appear prominently in all of the names;
- (b) Recognition as the Host Site of the Event;
- (c) Prominent placement of **CITY'S** name and/or logo in all print, radio, television and website advertising created by **PIM** to promote the Events, including in the player's information packet;
- (d) Prominent placement of **CITY'S** name on the front cover of all promotional materials created and distributed by **PIM**;
- (e) Prominent placement of **CITY'S** name in all press materials;
- (f) Audio and graphic mentions during any telecast;
- (g) Stadium court and Grandstand court signage which includes the name or logo of the City on banners on the 2 backdrops for the courts;
- (h) Use of on-site booth space for promotional purposes (with all material subject to the prior approval of **PIM**);
- (i) Participation of **CITY** in press conferences for the Events;
- (j) Recognition as the host site sponsor where such recognition is displayed on the sponsors board and the sponsors/draw board displayed on site;
- (k) Participation in awards ceremony; and
- (l) Opening and closing billboards or two 30 second television commercials during national airing of the April and July events.

7. EVENT EXPENSES AND REVENUES.

(a) **PIM** shall be responsible for collecting all revenues generated by, and paying all expenses incurred for, the Events, except for those expenses associated with **CITY'S** obligations set forth herein.

(b) **CITY** acknowledges that **PIM** will not pay **CITY** for any expense incurred by **CITY** in conjunction with the Events unless **CITY** has submitted a written estimate of such expense to **PIM** and obtained written approval from **PIM** of such expense in advance.

8. OFFICE SPACE.

PIM shall be allowed to use the event office/ticket building, adjacent to the **CITY'S** Community Center, located at 30 N.W. 1st Avenue, provided, that **PIM** first obtains the consent of Match Point Inc. prior to any such use. If the **CITY** determines that it needs the exclusive use of the event office/ticket building, **PIM** agrees that it will vacate the office building within 60 days of receiving such notice.

9. FORCE MAJEURE.

If **PIM** or the **CITY** is prevented from or interfered with in any manner whatsoever in fully performing the terms and conditions of this Agreement (including its ability to conduct the Event(s)) hereunder, for any reason beyond its reasonable control such as any law, regulation, act of God, earthquake, flood, fire, accident, labor controversy, act or threat of terrorism or delay of a common carrier (the foregoing all being examples of an "event of force majeure"), then **PIM'S** and the **CITY'S** obligations hereunder will be suspended as often as any such event of force majeure occurs and during such occurrences, **PIM'S** and **CITY'S** nonperformance will not be deemed a breach of this Agreement

10. TAXES.

PIM shall be liable for any and all taxes which are or may be imposed as a result of this Agreement. Taxes shall be paid to the appropriate authority and including, but not limited to, sales and use tax.

11. PROOF OF INSURANCE.

PIM shall provide the **CITY** with proof of insurance being in force. The type and quantity of insurance is more particularly set forth in Exhibit "B" to this agreement. Proof of such insurance shall be due 30 days prior to the first day of each Event. The insurance shall name the **CITY** and its designee as additional insured.

12. FINANCIAL RESPONSIBILITY.

PIM agrees, subject to the provisions of this Agreement, to accept all financial responsibilities for the Events including, but not limited to, all accounting and reporting as may be required by law. **PIM** further agrees to accept sole responsibility for any financial commitments or obligations it incurs as a result of the Events, and which are not provided for in this Agreement.

13. OTHER SERVICES AND SUPPLIES.

PIM further agrees that all services and supplies not specifically identified herein shall be provided by or through **PIM**.

14. CONCESSION RIGHTS OF PIM.

PIM may sell food, beverages, confections, refreshments and novelties or may, subject to approval by **CITY**, contract with another to provide such service except that **PIM** will not offer for sale items that are prohibited by the **CITY'S** agreement with Coca-Cola of Florida, unless otherwise agreed to in writing by **CITY**, Coca-Cola Enterprises, Inc. and **PIM**. **PIM** is also aware that from time to time the **CITY** may change beverage vendors and **PIM** agrees to abide by the contractual terms of, as it relates to sponsorships and sale or use of a certain beverage product, of any future beverage agreement the **CITY** may enter into.

In providing the concession service, **PIM** or any person, firm, or corporation with whom it contracts for such purpose (hereinafter referred to as "concessionaire") shall comply with the following provisions provided, however, that **PIM** shall remain ultimately responsible to **CITY** for all obligations required of the concessionaire:

- a. Concessionaire shall, prior to commencing any activities, obtain any and all permits and licenses that may be required in connection with the operation of this concession.

b. All food, drinks, beverages, confections, refreshments, etc. sold or kept for sale shall be first class and quality, in accordance with the Department of Health requirements, shall conform to all federal, state, county, and municipal laws, ordinances and regulations in all respects.

d. Concessionaire may, at its expense, furnish additional equipment and fixtures to be utilized in the concession. Concessionaire shall submit plans and specifications concerning fixtures and equipment to **CITY** for approval prior to installation of any items. For the purpose of this Agreement, "fixture" shall be defined as anything annexed or affixed to a building or structure or which appears to be so affixed or annexed, regardless of whether it is capable of being removed.

e. The Concessionaire shall provide all maintenance, repair and service required on all equipment used on the concession.

f. Concessionaire shall keep all fixtures, equipment and personal property, whether owned by Concessionaire or **CITY**, in a clean and sanitary condition and shall cleanse, fumigate, disinfect and deodorize as required and whenever directed to do so by **CITY**. All state health laws and state health department regulations must be strictly complied with. All janitorial services necessary in concession area shall be provided by Concessionaire at Concessionaire's expense.

g. Concessionaire agrees to dispose of all refuse and garbage, in compliance with all applicable laws, ordinances and health codes, at Concessionaire's expense, and to keep outside container areas cleaned at all times.

h. If the concession is operated by a person, firm or corporation other than **PIM**, such person, firm, or corporation shall at all times maintain workers' compensation insurance coverage for all employees which it employs within the areas and facilities covered by this Agreement, together with the policy or policies of public liability and products liability insurance and provides limits of at least One Million (\$1,000,000.00) Dollars for combined single limit coverage; provide liquor liability insurance with limits of at least One Million (\$1,000,000.00) Dollars and provide fire legal liability in the amount of Five Hundred Thousand (\$500,000.00) Dollars. Such policies shall provide that they will not be cancelled or amended without at least ten (10) days written notice to the Risk Manager of **CITY** and shall name **CITY**, its officers, agents and employees as additional insured.

15. ACCEPTANCE OF TOURNAMENT SITE.

(a) Prior to the Event, **PIM** may inspect and examine the Site to determine that said Site is in adequate and satisfactory condition for the uses contemplated. **PIM** assumes full responsibility and liability for all damages, losses and liability caused by conditions on the Site, which arise once it commences use and occupancy of the Site, and which conditions are caused by or result from the actions of or failure to act by **PIM**, its employees, agents or representatives, or by the actions of or failure to act by exhibitors, independent contractors, workers or invitees of **PIM** while on the Site. **PIM** indemnifies, defends and holds **CITY**, and its designee, harmless for any such claims unless such damage, loss or liability was caused by conditions on the Site which are inherent in the structures involved, or the direct result of **CITY'S** (including its employees and agents), negligence or misconduct.

(b) **CITY**, and its designee, shall not be responsible for any damage or injury to, or personal conduct, safety and welfare of **PIM**, its employees, agents or representatives, or exhibitors, independent contractors, workers, and invitees while on the premises and **PIM** expressly indemnifies, holds harmless and releases **CITY** from any and all such claims, damages, losses or liability associated therewith, unless such claim, damage, or liability is the result of **CITY'S** (including employees and agents) negligence or misconduct.

16. REPAIR, REPLACEMENT AND MAINTENANCE.

PIM shall pay all costs for cleanup, repair and replacement and all damages of whatever origin or nature, for which it is responsible, ordinary wear and use thereof only excepted, which may occur during the term of this Agreement in order to restore the Site to a condition equal to the condition at the time **PIM** occupies the Site.

PIM shall be responsible for clean-up of the Site during and after the Event. If at any time **CITY** determines that the clean-up services provided by **PIM** is not adequate or that said services endanger public health and safety, **CITY** shall notify **PIM** in writing and if **PIM** fails to clean up after receipt of written notification, **CITY** may provide these services. **PIM** shall reimburse **CITY** for the costs of providing these services and for the actual costs of any supplies.

17. ADVERTISING MATTER.

(a) **PIM** agrees, subject to its rights, if any, under any applicable License Agreements, to identify the City of Delray Beach as the host site of the Events in all publications, advertising and any electronic broadcast, and to permit **CITY** to use **PIM'S** trademark or any trademark authorized to be used by **PIM**, and **CITY** agrees to permit **PIM** to use the **CITY'S** name and logo and trademark during the term of this Agreement solely in the connection with the Events. **CITY** agrees that promotional material created by **CITY** with regard to the Event is subject to the approval of **PIM**. **PIM** agrees that any material submitted by **CITY** will not be unreasonably disapproved, and, if it is disapproved, that **CITY** will be advised of the specific grounds of the disapproval.

(b) All printed material and advertising matter to be used prior to or at the Event which include the name City of Delray Beach or its official seal shall be submitted to the City Manager or his designee for his approval at least two (2) days prior to the proposed use of the same. Approval shall not be unreasonably withheld by the City Manager or his designee. **CITY** agrees that it shall always use the official name of the Event as designated by **PIM** and no other name when making reference to the Event in **CITY'S** promotional materials.

(c) **PIM** will secure, at a minimum, regional television coverage for the April and July Events and **PIM** shall ensure that such television coverage of the April and July Events shall specifically mention the **CITY** as the host in the opening of each and every broadcast. If **PIM** fails to provide television coverage for the April and/or July Events, **PIM** shall pay \$10,000.00 to the **CITY** per event, which shall be increased by the CPI increase (as described in Paragraph 4(B)) each year, within 30 days of the conclusion of the Event.

(d) **CITY**, or its designee, may temporarily cover advertisements, corporate logos or trademarks that appear throughout the Site, at its sole expense, as mutually agreed upon by the parties.

18. EVENT PERSONNEL AND EQUIPMENT.

PIM shall provide all personnel needed for the Events, except as otherwise set forth in Paragraph 4(a) or elsewhere in this Agreement.

19. POLICE AND EMERGENCY PERSONNEL.

PIM agrees to make arrangements with the **CITY** Police Department and Fire Department to provide for **CITY** police and emergency personnel if the **CITY** determines, in its sole discretion, it is necessary for the Events. **PIM** shall pay all costs for **CITY** police and emergency personnel within 30 days of the conclusion of the Events.

20. CITY'S RIGHT TO CONTROL PREMISES.

CITY at all times reserves the right to eject or cause to be ejected from the premises any person or persons violating or to keep persons from violating any of the rules or regulations of the Site or any city, county, state or federal laws, and neither **CITY** nor of any its officers, agents or employees shall be liable in any manner to **PIM** or its officers, agents or employees for any damages which may be sustained by **PIM** through the exercise of this right by **CITY**.

21. VACATION OF THE SITE.

PIM agrees to vacate the Site no later than one (1) day after the completion of the Events; to leave said Site in a condition equal to that at the commencement date **PIM** occupies the Site each year, ordinary wear and use thereof only excepted, and that **PIM** shall remove from the Site within one (1) day following the closing of the Event, all material and equipment owned by **PIM**.

22. NON-DISCRIMINATION.

A. That **PIM** for itself, its personal representatives, successors in interest, assigns, subcontractors, and sublicensees, as a part of the consideration hereof, does hereby covenant and agree that:

1. No person on the ground of race, color, national origin, age, or sex shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
2. That in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the ground of race, color, national origin, age, or sex shall be excluded from participation in, be denied the benefits of, or otherwise be subject to discrimination.
3. That **PIM** shall use the premises in compliance with all other requirements imposed or pursuant to Title 45, Code of Federal Regulations, Article 80, Non-discrimination under programs receiving Federal Assistance through the Department of Health, Education and Welfare - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

B. That in the event of a proven breach of any of the above non-discrimination covenants, the **CITY** shall have the right to terminate the license and to take possession of said facilities and hold the same as if said license had never been made or issued. This provision shall not be effective until the procedures of Title 45, Code of Federal Regulations, Part 80, are followed and completed including exercise or expiration of appeal rights.

C. **PIM** shall not discriminate against any employee or applicant for employment to be employed in the performance of the contract with respect to hiring, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment because of age, sex, physical handicap (except where based on a bona fide occupational qualification); or because of marital status, race, color, religion, national origin or ancestry.

23. CHANGE IN LAW.

During the term, the **CITY** reserves the right to restate and/or renegotiate with **PIM** such additions, deletions or changes to the license as may be necessitated by changes in county, state or federal laws relating to the operation of the Site. In the

event that the **CITY** and **PIM** are unable to reach a mutual agreement on any such addition, deletion or change, that portion of the contract concerning the services involved in the addition, deletion or change shall be terminated or eliminated.

24. CANCELLATION BY CITY.

The occurrence of any of the following may cause this Agreement to be automatically terminated:

- A. Institution of proceedings in voluntary bankruptcy by **PIM**.
- B. Institution of proceedings in involuntary bankruptcy against **PIM** if such proceedings lead to adjudication of bankruptcy and the **PIM** fails within ninety (90) days to have such adjudication reversed.

The **CITY** shall have the right, after fourteen (14) calendar days written notice sent by registered or certified mail to **PIM** specifying the amount of payment(s) in default, to terminate this Agreement whenever the non-payment of any sum or sums due hereunder continues for a period of ten (10) calendar days after the due date for such payments; provided, however, that such termination shall not be effective if **PIM** makes the required payment(s) during the fourteen (14) calendar day period following receipt of the written notice.

25. DEFAULT BY PIM.

The **CITY** may terminate this Agreement for cause upon **PIM'S** failure to perform any of the terms and conditions of this Agreement and such failure in performance not remedied by **PIM** within thirty (30) days after receiving notice in writing of such default or in cases where remedial measures may take longer than thirty (30) days, satisfactory remedial action must begin and be consistently undertaken within thirty (30) days after receiving notice in writing stating the nature of the failure of performance and the **CITY'S** intention to terminate if not corrected and which remedial measures must be completed within a reasonable time set forth in the notice from the **CITY**.

26. DEFAULT BY CITY.

PIM may terminate this Agreement for cause upon **CITY'S** failure to perform any of the terms and conditions of this Agreement if such failure in performance was not remedied by **CITY** within thirty (30) days after receiving notice in writing of such default,

or in cases where remedial measures may take longer than thirty (30) days, satisfactory remedial action must begin and be consistently undertaken within thirty (30) days after receiving notice in writing stating the nature of the failure of performance and **PIM'S** intention to terminate if not corrected and which remedial measures must be completed within a reasonable time set forth in the notice from **PIM**.

27. FAILURE TO HOLD ONE OR MORE OF THE EVENTS.

If **PIM** fails to hold one or more of the Events as scheduled, and a makeup date is not scheduled within a time period agreed to by the **CITY**, the **CITY** has the right to deduct, from the next year's payment a percentage of the monthly payment as follows:

Failure to hold the April Event – 25% deduction
Failure to hold the July Event – 50% deduction
Failure to hold the September Event – 17.5% deduction
Failure to hold the October Event – 7.5% deduction

The deductions shall be applied in equal installments monthly until extinguished. This paragraph is in addition to the rights that the **CITY** has under Paragraph 25 and this Paragraph does not affect the **CITY'S** ability to exercise its rights under Paragraph 25, if it so chooses. Notwithstanding the language provided in the first part of this paragraph, if **PIM** fails to hold 2 events in any 2 year time period, which is not a result of an action that is covered under Paragraph 9 or a default by the **CITY**, the **CITY** may, in its sole discretion, terminate this Agreement and **PIM** shall be responsible for a return of any payments made to **PIM** that are still outstanding as of the date of termination (such as the payment of funds due to the **CITY** for the failure to hold prior events).

28. NOTICES.

Any notices submitted or required by this Agreement shall be sent by registered or certified mail and addressed to the parties as follows:

To the City: David Harden, City Manager
City of Delray Beach
100 N.W. 1st Avenue
Delray Beach, Florida 33444

To PIM: Player's International Management, Inc.
30 N.W. 1st Avenue
Delray Beach, FL 33444

or to such other addresses as either party may designate in writing.

29. INTERPRETATION.

This Agreement constitutes the entire Agreement between the parties with respect to subject matter hereof and supersedes all prior verbal or written agreements between the parties with respect thereto. This Agreement may be amended only by written document, properly authorized, executed and delivered by both parties hereto. This Agreement shall be interpreted as a whole unit and section headings are for convenience only. All interpretations shall be governed by laws of the State of Florida. Waiver of any breach shall not constitute waiver of any other breach. Invalidation of any portion of this Agreement shall not automatically invalidate the entire Agreement.

30. INDEMNIFICATION.

(a) To the fullest extent permitted by laws and regulations, **PIM** agrees to indemnify, defend, save and hold **CITY**, its officers, agents, employees and assigns and Dubin & Associates, Inc., harmless from any and all claims, damages, liabilities, losses, causes of action, liens or judgments of any kind or nature whatsoever which may arise out of, in connection with, or because of the use, maintenance, or operation of the licensed facilities, including but not limited, to the exterior facilities and grounds, parking areas, pedestrian walkways, vehicular paths and grassy areas, by **PIM** or its officers, agents, employees, or independent contractors, and invitees including but not limited to those resulting from or arising out of (a) by any act done or words spoken by **PIM**, its players, agents or employees; (b) any damage done to the premises or any part thereof caused by the act or omission of either **PIM** or any player, agent or employee of **PIM**; (c) the breach by **PIM** of any term of this Agreement; or (d) any breach or alleged breach of any warranty or obligation undertaken by **PIM** in this Agreement. **PIM** shall pay all claims, losses, liens, settlements or judgments of any nature whatsoever in connection therewith, including but not limited to reasonable attorney's fees and costs to defend all claims or suits, in the name of **CITY** when applicable.

(b) **PIM** agrees to defend all actions to which this Paragraph 29 applies, in the name of **CITY** provided, however, that **CITY** reserves the right to select its own legal counsel to conduct any defense in any such proceeding which selection shall be

reasonable under the circumstances. All costs and fees associated therewith shall be the responsibility of **PIM** under this indemnification agreement.

(c) Such indemnification shall be limited to the amount of commercial general liability insurance which **PIM** is required to obtain under this License Agreement.

(d) Nothing contained herein is intended nor shall be construed to waive **CITY'S** rights and immunities under the common law or Section 768.28, Florida Statutes, as amended from time to time. The provisions of this Paragraph 30 shall survive the execution, delivery and performance of this Agreement.

31. PERSONAL PROPERTY.

CITY assumes no responsibility whatsoever for any property placed on the Site by **PIM**, its agents, employees, representatives, independent contractors or invitees. **CITY** is hereby expressly released and discharged from any and all liabilities for any loss, injury or damage to such property that may be sustained by reason of the use and occupancy of the Site under this Agreement, unless such damage, loss or liability is caused by **CITY'S** (including employees and agents) negligent, reckless or intentional act(s). If any claim or cause of action is brought against the **CITY** relating to personal property as contemplated by this paragraph, and where such claim or cause of action is not founded on the negligent, reckless or intentional action of the **CITY** (including employees and agents), then **PIM** shall defend any such action in the name of **CITY** provided, however, that **CITY** reserves the right to select its own legal counsel to conduct any defense in any such proceeding which selection shall be reasonable under the circumstances. All costs and fees associated therewith shall be the responsibility of **PIM** under this agreement.

32. INDEPENDENT CONTRACTOR STATUS.

PIM and its employees, volunteers and agents shall be and remain independent contractors and not agents or employees of **CITY** with respect to all of the acts and services performed by and under the terms of this Agreement or for any other reason whatsoever. This Agreement shall not in any way be construed to create a partnership, association or any other kind of joint undertaking or venture between the parties hereto.

33. WARRANTY.

Except as otherwise provided for herein, the **CITY** and **PIM** represent that they have, to the best of their knowledge and belief, all rights and authority necessary to fulfill the obligations hereunder without breaching the terms of any other agreement to which either **PIM** or **CITY** is a party.

34. ASSIGNMENT.

This Agreement shall bind and inure to the benefit of **PIM** and the successors and assigns of **PIM**. The rights granted **PIM** hereunder shall be exclusive to it and shall not, without the prior written consent of **CITY**, be transferred or assigned to any other. The **CITY** may, in its sole and absolute discretion and for any reason or no reason, deny any request by **PIM** to assign this Agreement.

35. RESERVATION OF RIGHTS.

All rights not herein specifically granted to **PIM** with respect to the Event shall be and remain the property of **CITY**.

36. ENTIRE AGREEMENT.

This Agreement constitutes the entire Agreement between **CITY** and **PIM** in respect to the subject matter of this Agreement and supersedes all prior agreements. The Agreement between the parties dated October 4, 2006, and any amendments thereto, shall be null and void as of the effective date of this Agreement.

37. EXECUTION AND DELIVERY REQUIRED.

This instrument shall not be considered to be an agreement or contract, nor shall it create any obligation, whatsoever, on the part of **PIM** or **CITY**, or either of them, unless and until it has been signed by representatives of **PIM** and **CITY** and delivery has been made of a fully-signed original.

38. THIRD PARTIES.

Nothing in this Agreement, whether express or implied, is intended to confer any rights or remedies under or by reason of this Agreement upon any person other than the

parties hereto and their respective heirs, successors, legal representatives, and permitted assigns, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third persons to any party to this Agreement, nor shall any provision thereof give any third person any right of subrogation or action over or against any party to this Agreement.

39. VENUE.

The laws of the State of Florida shall govern and venue shall be in Palm Beach County, Florida.

40. OTHER AGREEMENTS.

PIM is aware that the CITY may, during the term of this Agreement, enter into other Agreements regarding sponsorships and/or advertising that may involve the stadium, tennis center or any products that may or may not be sold on Site. PIM agrees to abide by the terms of the those agreements as they relate to the sponsorships, advertising, marketing, etc. of the tennis stadium, tennis center and any products or other items that may or may not be sold, purchased or distributed at the Site. PIM agrees to abide by the terms of the CITY'S current contract with Coca Cola.

41. APPROVALS.

All approvals to be given by a party under this Agreement shall not be unreasonably withheld or delayed.

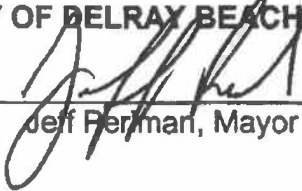
IN WITNESS WHEREOF, the parties have caused this agreement and one counterpart, both of which shall constitute originals, to be executed by its proper officers hereto duly authorized on the year and date first above written.

ATTEST:



City Clerk

CITY OF DELRAY BEACH, FLORIDA

By: 

Jeff Perlman, Mayor

Approved as to Form:



City Attorney

WITNESS:

Susan Kiminas
Susan Kiminas
(print or type name)

PLAYERS INTERNATIONAL,
MANAGEMENT, INC.

By: Ivan Baron
Name Printed: IVAN BARON
Title: VICE PRESIDENT

SEAL

STATE OF Florida

COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me this 16th day of MARCH, 2007 by Ivan Baron, Vice-President of PLAYERS INTERNATIONAL MANAGEMENT, INC., a Florida corporation, on behalf of the corporation. He/She is personally known to me/~~or has produced~~ _____ (as identification).

Catherine Inglose
Signature of Notary Public



EXHIBIT "A"

Hosting four USTA junior tennis tournaments in the City of Delray Beach provides an opportunity to drive economic impact and a national marketing campaign to thousands of tennis players and families across the country while insuring the growth of tennis in the City by developing a youthful fan base that will support the City's ATP tournament for many years to come.

The City of Delray Beach and Players International Management, Inc. (PIM) would enter into an agreement in which PIM will cause to happen the following four USTA sanctioned events:

USTA BOYS & GIRLS 12'S NATIONAL SPRING CHAMPIONSHIPS hosted by City of Delray Beach (April)

- \$800,000-plus annual economic impact to the area
- Televised state-wide and nationally in over 23 million homes
- Highest level amateur tennis event in the country in the 12 & under division
- 256 players from across the country in the 12 & under division, plus coaches and families (approx. 1,000 people)
- 50-plus year history
- Past participants include Roddick, Agassi, Sampras, Davenport and Capriati just to name a few - Currently in the month of April (date may vary from year to year)

USTA SUMMER SMASH REGIONAL TENNIS CHAMPIONSHIPS (September)

- \$550,000-plus annual economic impact to the area
- Newly formed USTA event to debut across the country in 2007
- 512 players from the southeast US, plus coaches and families (approx. 1,500 people) - Competition in boys and girls 12s, 14s, 16s and 18s divisions
- 2nd largest number of participants of any USTA tournament in the US
- Currently in the month of September (date may vary from year to year)

HALLOWEEN SUPER SERIES TENNIS TOURNAMENT (October)

- Annual economic impact to the area
- 192 players from southeast Florida and international students training locally, plus coaches and families (approx. 500 people)
- Competition in boys and girls 10s, 12s and 14s age divisions
- Currently in the month of October (date may vary from year to year)
- The 2006 Halloween Super Series event shall only utilize the Delray Swim and Tennis Club facility and not the Tennis Center on Atlantic Avenue, future Halloween Super Series events may utilize both facilities.

USTA BOYS 16's & 18's NATIONAL CLAYCOURT CHAMPIONSHIPS

(July)

- 50+-year history, highest level USTA amateur tennis event in the United States
- Televised state-wide and nationally in over 20 million homes
- Winner of Boys' 18's Receives a Main Draw Wildcard into the Delray Beach International Tennis Championships (ATP Men's Tour Event)
- Host 100 NCAA College Coaches at the "College Forum"

Event Overview:

- \$ 1,000,000+ annual economic impact to the area
- Highest level USTA amateur tennis event in the country
- 1,200+ Hotel Room Nights
- 400 top-ranked boys in the United States (16 & 18 & under division)
- 1,200+ players and guests will attend this event from around the United States
- 100 (approx.) NCAA Coaches flying in from around the country for "College Forum"
- 75 (approx.) tennis courts are used during the event (same as Summer Smash Regionals – Sept.

Event)

- One of only four "Nationals" in the 16 & 18 & under age division in the United States
- Past participants: Andy Roddick, Andre Agassi, Pete Sampras, and James Blake
- Currently in the month of July – (date will vary in July from year to year)
- Free admission

The event will promote junior tennis both locally and nationally and will consist of 400 of the highest ranked boys in the country in the 16 & 18 and under age division competing against each other for the coveted "USTA Gold Ball."

Benefits to the City of Delray Beach

- Recognition as "Host-Site" of the event
- Opening and closing billboards and two, 30 second television commercials during national airing
- Participation in press conferences
- Participation in televised awards ceremony
- Prominent placement of City's name on the front cover of all promotional materials
- Prominent placement of City's name and/or logo in all print, radio, television and website advertising (including Mass E-mails, Player Handbook, etc.)
- Prominent placement of City's name in all Press Releases/Materials
- Recognition as the host site sponsor on the Sponsors Board and the sponsors/draw board displayed on-site
- Recognition in audio and graphic mentions during any telecast
- Stadium court and Grandstand court signage which includes the name or logo of the City on banners on the two backdrops for the courts
- Use of on-site booth space for promotional purposes

EXHIBIT B

INSURANCE REQUIREMENTS OF THE CITY OF DELRAY BEACH FOR AGREEMENT WITH PLAYER'S INTERNATIONAL MANAGEMENT, INC.

PIM shall not commence operations under the terms of this Agreement until certification or proof of insurance, detailing terms and provisions of coverage, has been received and approved by the City of Delray Beach Risk Manager. If you have any questions call (561) 243-7150.

The following coverage and/or provisions shall be required:

Commercial General Liability Insurance: Shall be written on the most current ISO Occurrence Form, or equivalent, to cover legal liabilities arising from premises and operations, independent Images, contractual (indemnification) agreement, products and completed operations, liquor liability, personal injury and XCU exposures as required by the work to be performed under this Contract, unless waived by the City. The combined bodily injury and property damage limit shall not be less than \$1,000,000 per occurrence with an annual aggregate of \$2,000,000.

Automobile Liability Insurance: Shall be maintained in accordance with the laws of the State of Florida to cover the ownership, maintenance and/or use of all owned, non-owned, or hired vehicles as required by the work to be performed under this Contract. The combined bodily injury and property damage limit shall not be less than \$500,000 per occurrence.

Workers' Compensation Insurance: Shall be provided and maintained in accordance with Statutory Requirements of the State of Florida. Included shall be Employee's Liability Insurance to protect against on-the-job injury or illness which may not fall within the provisions of the Florida State's Workers' Compensation Law. The limits shall be no less than \$500,000 each accident, and an occupational disease limit of \$500,000 per employee/\$500,000 aggregate.

Additional Insured: The City of Delray Beach shall be included as an additional insured by way of the most current ISO endorsement, or its equivalent, on PIM's liability insurance policies required under this contract.

Legal Defense: PIM will provide to the City any legal defense, and will pay all related expenses, as required by this Contract for legal actions, actual and alleged, brought against PIM and/or the City for activities related to his Contract. This City will not be prohibited from using its own independent legal counsel, independent of legal actions taken by PIM, and will be entitled to all documents and information as developed by PIM, its insurer(s) and their legal council(s). The City will not be obligated to pay any premium or contribution for such services and/or claim settlements.

Claims-Made Policies: If any liability insurance is issued on a claims-made form, PIM agrees to maintain uninterrupted coverage for a minimum of one (1) year following conclusion of the Agreement either through the purchase of an extended reporting provision, or through the purchase of successive renewals with a retroactive date not later than the beginning of performance of work under the Contract.

Subcontractor Provision: PIM will assure that all subcontracted work essentially requires the subcontractor(s) to adhere to the same insurance, safety and indemnity provision as in this Contract, or otherwise PIM will assume the legal liabilities of such subcontractor(s) as provided for elsewhere in this Contract.

Evidence of Insurance: Prior to the commencement of the use of the Site by PIM or a subcontractor, the City must receive and approve Certificates of Insurance evidencing the insurance coverages and requirements as required by this Contract. Certified copies of the policies will be provided if requested by the City. Renewal Certificates shall be provided to the City at least ten (10) days prior to the expiration of any policy.

Cancellation/Changes/Renewal: At least thirty (30) days written notice must be given to the City of any cancellation, intent to non-renew, or material reduction or change in insurance coverages.

Primary Policies: PIM's insurance will be primary to the City's insurances or self-insurance programs.

Waiver of Subrogation: PIM and its insurer(s) waives all rights of subrogation against the City, its employees, officers, directors and agents for the recovery of damages to the extent such damages are covered under any of the City's general liability, automobile liability, excess liability or property insurance and self-insurance programs.

Insurance Ratings: All insurers of Insurance shall be authorized to do business in Florida, and shall have an A.M. Best rating of A-/VII, or equivalent.

Deductibles and Self-Insured Retentions: PIM is responsible for all deductibles and self-insured retentions. In the event of loss which would have been covered but for the deductible or self-insured retention, the City may withhold from payment to PIM an amount equal to the deductible or self-insured retention should the full loss recovery not be obtained under PIM'S insurance as a result.

Mail to: City of Delray Beach, Attn. Risk Manager, 100 N.W. 1st Avenue, Delray Beach, Florida 33444.