

REVOCABLE LICENSE AGREEMENT

THIS AGREEMENT is made this ___ day of _____, 2022, by and between the CITY OF DELRAY BEACH, FLORIDA, a municipal corporation of the State of Florida (hereinafter referred to as "City"), whose address is 100 NW 1st Avenue, Delray Beach, Florida 33444, and JPR Productions, Inc. (hereinafter referred to as "Licensee"), whose address is 8376 Trent Court Unit C, Boca Raton, FL 33433.

WITNESSETH:

WHEREAS, City owns and controls certain land upon which is located the Delray Beach Municipal Tennis Center, and hereinafter called "Tennis Center"; and

WHEREAS, City has determined that it is in the public interest to enter into an agreement with Licensee for the event at the Tennis Center.

WHEREAS, City determined it is in the City's interest to enter into an agreement with Licensee for the Event to be hosted at the Tennis Center.

NOW, THEREFORE, it is mutually agreed as follows:

1. Recitals. The above recitals are true and correct and are incorporated herein by reference.
2. License. Licensee, its employees, agents, or contractors shall use and occupy the Licensed Premises only to provide services as described herein. The Licensed Premises shall not be used for any other purpose whatsoever without the written consent of the City. Licensee covenants that it will not, without written consent of the City, permit the Licensed Premises to be used or occupied by any person, firm, entity, or corporation other than Licensee, its employees, agents, or contractors, and invited attendees. Licensee further covenants that no nuisance or hazardous trade or occupation shall be permitted or carried on, in, or upon said Licensed Premises, that no act shall be permitted, and nothing shall be kept in or about said Licensed Premises that will increase the risk of any hazard, fire, or catastrophe, and that no waste shall be permitted or committed upon or any damage done to said Licensed Premises. Licensee shall not permit the Licensed Premises to be used or occupied in any manner which will violate any laws or regulations of any governmental authority.
3. Term. This Agreement shall commence at 8:00 a.m., on January 6, 2023, and terminate at 5:00 p.m., January 8, 2023.
4. Permitted Activities.
 - (a) Licensee's use and permissible activities of the Licensed Premises on Friday, January 6, 2023, and Sunday, January 8, 2023, shall be limited to set-up and teardown of any and all equipment necessary for the Event and shall occur between 8:00 a.m. and 5:00 p.m.

- (b) Move-in, Set-up, and or Rehearsal Time on Saturday, January 7, 2023, will begin at 8:00 a.m. and end no later than 12:00 p.m.
- (c) Performances shall not commence earlier than 5:00 p.m. on Saturday, January 7, 2023, and go no later than 11:00 p.m. that evening.

5. Purpose. The parties agree that Licensee shall promote and produce the Event in a manner which complies with community standards and appeals to the interest of the general public and use its best efforts to promote the Event at the Tennis Center. Licensee, at its sole cost and expense shall provide management and personnel experienced in the promotion and production of the Event and for the purpose of supervising and directing Licensee's obligations under this agreement.

6. Licensee's Rights for the Event. Licensee shall have authority, subject to the provisions and limitations set forth in this Agreement, to enter into contracts or agreements to put on the Event. All such contracts shall be negotiated and executed by Licensee in its name and shall not be contracts and obligations of the City. All contracts entered into by Licensee shall specifically contain language which provides that City is not a party to such agreement and is not obligated in any manner by any of the terms therein.

7. Independent Contractor Status. It is understood between the parties that the relationship of City and Licensee is that of an independent contractor. Licensee shall have no authority to employ any person as an employee or agent on behalf of the City for any purpose. Neither Licensee nor any person engaging in any work relating to Licensee's rights and obligations set forth herein at the request of or with the consent (whether actual or implied) of Licensee shall be deemed an employee or agent of City, nor shall any such person represent himself to others as an employee or agent of City. Should any person indicate to Licensee or any employee or agent of Licensee, by written or oral communication to Licensee, that the person believes Licensee or an employee or agent of Licensee to be an employee or agent of City, Licensee shall use its best efforts to correct or cause its employee or agent to correct that belief.

8. Facilities and Services Provided by City. Unless otherwise herein specified, City shall be responsible for, or agrees to provide, the following facilities and production assistance in connection with the conduct of and staging of the Event:

- (a) use of a stadium court;
- (b) television tower and platform and all necessary electricity to provide power to the tower and platform throughout the Event;
- (c) parking for ticket holders, press, staff, and volunteers (Licensee to implement, manage, and staff parking, including reserved areas);
- (d) adequate space for and operation of concessions, retail booths, etc. (Licensee shall place and operate the concessions and retain all revenues from its concessions and retail booths);

- (e) restroom facilities and supplies;
- (f) the use of areas for celebrities, press, press interviews, volunteers, officials, ticket office, and VIP hospitality and the use of locker rooms, as mutually agreed. Areas should include tables, chairs, furniture and air conditioning, as mutually agreed;
- (g) on and off-site directional signage;
- (h) all necessary permits;
- (i) access to utilities to include but not be limited to water/sewer, electric/lighting;
- (j) reasonable use of the locker room at the Community Center, subject to the time restrictions of this License;
- (k) reasonable use of the gymnasium at the Community Center, subject to the time restrictions of this License;
- (l) one maintenance staff member to assist with issues involving the Tennis Center during the Event (Licensee shall be responsible for cost of additional personnel); and
- (m) garbage dumpsters (Licensee shall be responsible for cost of additional

dumpsters).

9. Staging and Production of the Event. The organization, staging, and conduct of the Event will be the responsibility of the Licensee, including, but not limited to, the following:

- (a) handling ticket and box office sales;
- (b) obtaining an Event Director, all personnel involved in the Event, and the Event participants;
- (c) administering the Event;
- (d) setting up each Event on-site and handling all activities of the Event, including setup and tear down of the stage and lighting and sound systems;
- (e) soliciting sponsorship sales and television rights sales for the Event;
- (f) handling promotions, advertising, sales, public relations, and program production for the Event;
- (g) liaising with the charity beneficiaries selected by Licensee for the Event;

- (h) handling and being responsible for all security measures concerning the Event, including but not limited to, the box office and ticket sales; and
- (i) obtaining all required licensing, approvals, or certificates required to host the Event and provide copies thereof to the City.
- (j) The stadium, restroom area, gymnasium, locker rooms, and all licensed property should be returned in the condition provided.

10. Compliance with Licensing Requirements. Licensee, prior to commencement of any activities pursuant to the provisions of this Agreement, shall comply with applicable federal, state, county and City requirements, laws, rules and regulations and all licensing requirements and receive all necessary permissions, permits, approvals and licenses which are required to perform the activities of producer and promoter as set forth herein.

11. Seating Capacity. Licensee shall not sell or distribute, or permit to be sold or distributed, tickets or passes in excess of the capacity of the Facilities nor admit thereto a larger number of persons than can safely and freely move about therein. The decision of Licensor's representative in this respect shall be final. Licensee must provide Emergency Action Plan to Licensor no later than ten (10) business days prior to the event. Temporary Seating: Licensee shall be solely responsible for installation, removal, and all costs related to any temporary seating. Temporary seating must meet all fire and safety codes. Temporary seating must be approved by Licensor, in writing, no less than ten (10) business days prior to the event.

12. Facilities and Stage Restrictions.

- (a) Licensee understands that the load-in/load-out may be delayed if vehicles cannot fit through loading doors, gates, or other size restrictions specific to the Facilities. It is Licensee's responsibility to CHECK SIZES OF ALL ACCESS POINTS.
- (b) Licensee understands that the Facilities will not be totally dark for theatrical lighting purposes.
- (c) Licensee understands that no change(s) will be permitted where the change(s) involve violation of fire codes (including minimum fire aisle requirements).
- (d) Licensee understands that smoking and alcoholic beverages are absolutely prohibited on stage, and Licensee shall share responsibility with Licensor to assure that proper announcements are made and follow-up steps taken to prevent/eliminate such activities; Licensee is specifically responsible for controlling the conduct of its employees, agents, attractions/entertainers, and contractors in this regard.
- (e) Rigging. Licensee is specifically responsible for the installation of lighting and sound equipment and other rigging in connection with the event(s), and controlling the activities of its employees, agents, contractors and attractions/entertainers in this regard, and shall assure that any questions concerning the manner of use of the Facility structure are resolved to the satisfaction of Licensor's representative

13. Compliance with Laws. Licensee agrees to comply with all applicable federal, state, county, and local laws and regulations of any kind, including, but not limited to, those regarding non-discrimination and specifically agrees not to discriminate against any person on the basis of color, race, religion, age, creed, sex, national origin or disability.

14. Copyrights. Licensee agrees, represents and warrants that nothing contained in the event(s) or otherwise connected with Licensee's activities with respect to this Agreement shall violate or infringe upon any copyright, patent, right of privacy or other statutory or common law right of any person, firm or corporation, and that all copyrighted material to be performed in connection with such event(s) and activities has been duly licensed or otherwise authorized by the owners of such copyright or the owner's authorized representative. Licensee agrees to indemnify and hold free and harmless, assume legal liability for and defend, Licensor, the City of Delray Beach, the Delray Beach Tennis Center Complex, and their officers, employees and agents, from and against any and all actions, claims, liabilities, assertions of liability, losses, costs, expenses and fines, including but not limited to attorney's fees, reasonable investigative and discovery costs, and court costs, arising out of the performance of any copyrighted material without license or other authorization, or any claim that an unauthorized performance of copyrighted material has occurred, or any other violation or infringement of any copyright, patent, right of privacy or other statutory or common law right of any person, firm or corporation in connection with the event(s) or other activities of Licensee and its officers, employees, agents, and contractors with respect to this Agreement. Licensee shall, upon request, provide Licensor's representative with proof of license or other authorization to perform copyrighted material.

15. Insurance.

- (a) Licensee shall, at a minimum, provide, pay for, and maintain in force at all times during the term of this Agreement (unless otherwise provided), insurance coverage as set forth in this Section.
- (b) Such policy or policies shall be without any deductible amount unless otherwise noted in this Agreement and shall be issued by approved companies authorized to do business in the State of Florida, with an AM Best financial rating of A- or better. Licensee shall pay all deductible amounts, if any. Licensee shall specifically protect the City of Delray Beach by naming the City of Delray Beach as an additional insured under the Commercial Liability Policy as well as on any Excess Liability Policy coverage. The official title of the certificate holder is City of Delray Beach. This official title shall be used in all insurance documentation.
- (c) Commercial Liability Insurance. A Commercial Liability Insurance Policy shall be provided with minimum limits of One Million Dollars (\$1,000,000.00) per occurrence combined single limit for bodily injury liability and property damage liability and shall contain minimum limits of One Million Dollars

(\$1,000,000.00) per aggregate. Coverage must be afforded on a form no more restrictive than the

latest edition of the Commercial Liability Policy as filed by the Insurance Services Office without restrictive endorsements excluding or limiting coverage for:

Premises and/or operations.

Explosion, Collapse and Underground Hazards.

Independent contractors.

Products and/or Completed Operations for contracts.

Broad Form Contractual Coverage applicable to this specific Agreement, including any hold harmless and/or indemnification agreement.

Personal Injury Coverage with Employee and Contractual Exclusions removed, with minimum limits of coverage equal to those required for Bodily Injury Liability and Property Damage Liability.

- (d) Workers' Compensation Insurance. Workers' Compensation insurance to apply for all employees in the minimum amount required by Chapter 440, Florida Statutes, as may be amended from time to time, the "Workers' Compensation Law" of the State of Florida, and all applicable federal laws.
- (e) Licensee shall furnish to City proof of insurance such as Certificate of Insurance and endorsements, Declarations pages or policies evidencing the insurance coverage specified by this Article within fifteen (15) calendar days of executing this Agreement. Licensee's failure to provide to City the Certificates of Insurance or endorsements evidencing the insurance coverage within fifteen (15) calendar days shall provide the basis for the termination of the Agreement.
- (f) Coverage is not to cease and is to remain in force until all performance required of Licensee is completed. All policies must be endorsed to provide the City with notice of expiration, cancellation and/or restriction. If any of the insurance coverage will expire prior to the completion of the work, copies of renewal policies shall be furnished upon expiration.
- (g) City reserves the right to review and revise any insurance requirements at the time of renewal or amendment of this Agreement, including, but not limited to, deductibles, limits, coverage, and endorsements. If Licensee uses a subcontractor, Licensee shall ensure that subcontractor names City as an additional insured.

16. Conclusion of Performances. All Performances shall end no later than 11:00 P.M. unless otherwise approved by the City Manager, or designee.

17. Assignment or Subletting. Licensee shall have no authority to assign all or any portion of the Licensed Premises during any term of this Agreement. Should Licensee attempt to assign this Agreement, then the Agreement shall be terminated forthwith, automatically, by operation of this clause, without prior notice to Licensee.

18. Alterations and Improvements to Licensed Premises. Licensee may not make any alteration, adjustment, partition, addition, or improvement to the Licensed Premises, or any part thereof, without obtaining prior written consent of City. All requests by Licensee shall be in writing and shall contain all pertinent plans and specifications. All alterations, adjustments, partitions, additions, or improvements shall, at the City's sole discretion, be removed by Licensee upon termination of this Agreement. Licensee shall perform, at its sole cost, removal in a manner that shall return the Licensed Premises to the condition in which it was received. Any costs necessary to restore or prepare the Licensed Premises for return shall be the sole responsibility of the Licensee. Licensee shall keep the Licensed Premises in a clean, safe, and sanitary condition.

19. Maintenance, Repair, and Damage of Licensed Premises. It shall be the responsibility of Licensee to keep the Licensed Premises clean, safe, sanitary, and free from trash and debris. The upkeep and maintenance of all areas herein used by Licensee shall be borne by Licensee, and Licensee agrees to maintain the Licensed Premises in accordance with the terms and conditions of this Agreement and consistent with prudent and well-reasoned maintenance procedures and techniques.

Licensee shall be fully responsible for damage of any kind or nature to the Licensed Premises and City property located thereon caused by the use of the Licensed Premises by Licensee or invitees of Licensee. Licensee shall be fully responsible for any and all repairs or replacement deemed necessary by City to return the Licensed Premises and City property to the condition existing at the commencement of this Agreement. Licensee shall give to City, or its agent, prompt written notice, in compliance with the provisions of Section 37, "Notice", of any occurrence, incident, or accident occurring on the Licensed Premises. In the event any damage should occur to the Licensed Premises or City property located thereon, Licensee shall promptly notify City. The City Manager shall be the sole judge in determining if the Premises was damaged and which party, if either, shall be responsible for said damage.

City has no knowledge of any issue or condition of the Licensed Premises that would make such Licensed Premises unsafe to Licensee's personnel, such as environmental hazards, hazardous substances/materials, and structural and mechanical deficiencies.

20. Personal Property and Damage. Licensee agrees that all personal property placed upon the Licensed Premises shall remain the property of Licensee and shall be placed upon the Licensed Premises at the risk of Licensee. Licensee shall give to City, or its agent, prompt written notice, in compliance with the provisions of Section 37, "Notice", of any occurrence, incident, or accident occurring on the Licensed Premises. In the event that any damage should occur to the Licensed Premises, Licensee shall promptly notify City.

21. Concession Rights. The Licensee has the sole and exclusive right to sell or give away

food and beverages and any and all other consumables, and to control the concessions referred to above and to approve the sale or give away of the above. However, in no event shall the sale of any facsimile of any weapon, silly string, poppers or any similar item be allowed. This provision may also be enforced by law enforcement. In addition, Licensee may provide temporary structures, at its own expense, for the sale of concession items provided that the site, construction and location of such temporary structures shall not impede the normal and safe flow of vehicular and pedestrian traffic and shall comply with all applicable laws and regulations. In providing the merchandise concession service, Licensee or any person, firm or corporation with whom Licensee contracted with for such purpose (hereinafter referred as "Concessionaire") shall comply with the following provisions provided, however, that Licensee shall remain ultimately responsible to City for all obligations required of the Concessionaire:

- (a) Concessionaires 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, confections, beverages and refreshments, etc. sold or kept for sale shall be first class and quality, wholesome and pure, and in accordance with Department of Health requirements and shall conform to all federal, state, county and municipal laws, ordinances, rules and regulations in all respects. Concessionaire shall not sell or give away or otherwise dispose of any commodity which in the opinion of the City may cause undue litter.
- (c) Concessionaires will not sell, distribute, use or dispense any single-use plastics.
- (d) Concessionaires may, at its expense, furnish additional equipment and fixtures to be utilized in the concession. Concessionaires shall submit plans and specifications concerning fixtures and equipment to the City for approval at least one week 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) Concessionaires shall keep all fixtures, equipment and personal property, whether governed 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 the 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 Licensee, 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 Dollars (\$1,000,000.00) for combined single limit coverage; and provide fire legal liability in the amount of Five Hundred Thousand Dollars (\$500,000.00). Such policies shall provide that they will not be canceled or amended without at least ten (10) days written notice to the City's Risk Manager and shall name City, and its designee, its officers, agents and employees as additional insureds.

22. Event Personnel and Equipment. Licensee shall provide all personnel needed for the Event, unless otherwise noted in this Agreement, including, but not limited to, ticket sellers, ticket takers, ushers, sound technicians and stagehands. Licensee shall be responsible for the installation or removal of any additional staging or sound and other lighting which is to be utilized for the Event or any other equipment of any type or nature which is needed for the Event. Licensee shall designate a management representative in a timely manner who will coordinate the Event with the City and its designee. Licensee shall be responsible for the cost of all chair rentals that may be required and the cost of all staging, lighting and sound equipment, except as otherwise stated in this Agreement. Licensee and the City's designee shall perform a "walk through" before and after the Event.

23. Police, Security and Emergency Personnel. Licensee agrees to make arrangements with the City Police Department and City's designee to provide for City police personnel which the City determines, in its sole discretion, is necessary for the Event. Licensees shall pay the officers at a rate to be determined by the City based on an analysis of the number of officers available to work the event, the number of officers required by the event and other factors within the sole discretion of the City. Licensee shall, at least thirty (30) days prior to the Event, consult with the Chief of Police, or designee, and the City's designee to determine the proper scheduling of security for the Event and the rate that will be applicable for the Event. Also, Licensee shall contact the City Fire Rescue Department and the City's designee to make arrangements for Emergency Medical Service personnel to be present at the Event at Licensee's sole expense.

24. City's Right to Control Premises. The City Manager, or designee, 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 Tennis Center or any city, county, state or federal laws, and neither the City, its designee nor of any its officers, agents or employees shall be liable in any manner to Licensee or its officers, agents or employees for any damages which may be sustained by Licensee through the exercise of this right by City or its designee.

25. Inspections: City or its agents, or any authorized employee of said agent, may enter upon said Licensed Premises at all reasonable times and hours to examine the same to determine if Licensee is properly maintaining the Licensed Premises according to the terms of this Agreement.

26. Right to Enter. City and its designee and authorized agents and employees shall have the right to enter upon the Licensed Premises at any and all reasonable times for the purpose of inspection and observation of Licensee's operation to assure that requirements of this Agreement are upheld and that no violations of the rules, statutes, ordinances or regulations have occurred or are occurring. Said inspections may be made by persons identified to Licensee as City employees or City designees authorized for such inspection or may be made by independent contractors engaged by City or its designee. Nothing contained herein shall be deemed a waiver of Licensee's obligation to hold the Event as provided in this Agreement.

27. Notice of Defects. Licensee shall report safety deficiencies or any defects it notices on the premises immediately to City's Risk Manager and the City's designee and shall cooperate fully with City and its designee in the investigation of accidents occurring on the subject premises.

28. Parking and Signage. The City shall provide Licensee the exclusive use of the parking spaces located in front of the Tennis Center, Community Center, and City Hall on Saturday, January 7, 2023. Licensee shall provide sufficient staff to monitor access to the parking spaces. Licensees shall be responsible for obtaining all additional parking that may be necessary to provide sufficient parking for the Event, including such additional parking as may be necessary in the opinion of the City, in order to ensure adequate parking is provided for the Event.

29. Indemnification. Licensee shall at all times hereafter indemnify, hold harmless and, at the City Attorney's option, defend or pay for an attorney selected by the City Attorney to defend City, its officers, agents, servants, and employees from and against any and all causes of action, demands, claims, losses, liabilities, and expenditures of any kind, including attorney fees, court costs, and expenses, caused or alleged to be caused by any intentional, negligent, or reckless act of, or omission of, Licensee, its employees, agents, servants, or officers, or accruing, resulting from, or related to the subject matter of this Agreement, including, without limitation, any and all claims, losses, liabilities, expenditures, demands, or causes of action of any nature whatsoever resulting from injuries or damages sustained by any person or property. In the event any lawsuit or other proceeding is brought against City by reason of any such claim, cause of action, or demand, Licensee shall, upon written notice from City, resist and defend such lawsuit or proceeding by counsel satisfactory to City or, at City's option, pay for an attorney selected by City Attorney to defend City. The obligations of this section shall survive the expiration or earlier termination of this Agreement. To the extent considered necessary by City, any sums due to Licensee under this Agreement may be retained by City until all of City's claims for indemnification pursuant to this Agreement have been settled or otherwise resolved. Any amount withheld shall not be subject to payment of interest by the City.

If Licensee uses a subcontractor, Licensee shall, by written contract, require its

subcontractors to agree to the requirements and obligations of this Section 24, "Indemnification".

Licensee also recognizes the inherent danger associated with stage performance and expressly agrees this indemnification applies to any injuries, including death, sustained by any participant in the Event. Additionally, Licensee will provide the City with a Release, in a form satisfactory to the City Attorney, signed by all participants in the Event releasing the City from liability.

The obligations of this Section shall survive the term of this Agreement.

30. Release. Licensee acknowledges and agrees that City, its designee, officers, agents and employees assume no responsibility whatsoever for any property placed in the premises provided for herein and City, its designee, officers, agents and employees are expressly released and discharged from any and all liability for any loss, injury, damage, theft, vandalism or other wrongful act; or acts of any kind or nature resulting in damage or loss to persons or property which may be sustained by Licensee's use of the premises. Licensee further expressly waives any and all claims for compensation for any and all loss or damages sustained by reason of any defects, deficiencies, or impairment of the electrical or sound equipment, water supply, equipment or wires furnished for the premises or by reason of any loss or impairment of light, current, or water supply which may occur from time to time for any cause, or by reason of any loss or damage sustained by Licensee resulting from fire, water, hurricane, tornado, civil commotion, riot, theft or other acts of God, and Licensee hereby expressly waives all right, claims and demands and forever releases and discharges City, its designee, officers, agents and employees from any and all demands, claims, actions and causes of actions arising from any of the causes aforesaid.

31. Taxes. Licensee shall pay any and all taxes levied on the property by reason of Licensee's use thereof pursuant to the provisions of this Agreement and on any personal property and improvements belonging to Licensee located on the premises and all applicable sales, use, rental and other taxes which may be levied against its operation.

32. License; Fees.

(a) Licensee shall pay to the City for the rights and privileges granted herein Fifteen Thousand Dollars (\$15,000.00) plus state sales tax and all taxes as referenced above for the use of the Licensed Premises for the Event. One-half of the payment is due upon Licensee signing this Agreement and the balance is due before 12:00 p.m. on Monday, January 2, 2023. All payments shall be in the form of a cashier's check. These fees are in addition to any other fees or reimbursements of whatever nature required or provided under this Agreement. The license fees paid by Licensee to City shall be forfeited if the Event is canceled by Licensee. The City shall reimburse the Licensee the deposited money in the instance where the City might cancel the Agreement prior to the date of the Event. If Licensee fails to pay the required amount within the stated time period, the City may, at its sole discretion terminate this Agreement.

(b) Licensee shall pay for all police and fire personnel provided by the City for the Event.

The City shall provide an estimate of the cost to Licensee and Licensee shall pay the estimated cost to the City at least 72 hours prior to the start of the Event. If Licensee fails to pay the required amount within the stated time period, the City may, at its sole discretion, terminate this Agreement.

33. Deposit. Licensee shall deposit with the City a security deposit in the amount of Ten Thousand Dollars (\$10,000.00) to cover the cost of potential damages to Licensed Premises. The security deposit shall be in the form of a certified or cashier's check payable to City or a bond executed by a surety or sureties approved by City, naming Licensee as principal and City as obligee, or other security acceptable to the City. The security shall be conditioned upon the faithful performance by Licensee of all of the termof this Agreement and no damages to the Licensed Premises, normal wear and tear excepted. Such security shall be due 15 days prior to the start of the Event. The security deposit will be returned to the Licensee within 10 days after the Event if no damage was incurred as determined by the City in its sole discretion.

34. City's Name/Logo. The City shall have its name/logo included in all print, radio, and television advertising created by Licensee to promote the Event. The City Manager, or designee, shall approve all materials containing the City logo prior to their release.

35. Advertising Revenue. Licensee shall be entitled to retain all advertising and sponsorship revenue generated by advertisers or sponsors of the Event promoted by Licensee at the Tennis Center; however, the City Manager, or designee, shall approve all advertising and its location.

36. Tennis Center Capacity. There will be a minimum of 8200 tennis stadium seats available for the Event.

37. Materiality and Waiver of Breach. City and Licensee agree that each requirement, duty, and obligation set forth herein was bargained for at arms-length and is agreed to by the parties in exchange for quid pro quo, that each is substantial and important to the formation of this Agreement, and that each is, therefore, a material term hereof.

City's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

38. Force Majeure, Strikes and Unavoidable Causes. City shall not be responsible for its failure to make the premises available or to provide the facilities and services described herein, where such performance is rendered impossible and impractical due to strikes, walk-outs, acts of God, inability to obtain labor, materials or services, government restriction (other than City), enemy action, civil commotion, fire, unavoidable casualty, utility disruptions or blackouts, or similar causes or any other causes beyond the control of City.

39. Termination. This Agreement is merely a right to use and grants no estate in the

Licensed Premises. This Agreement may be canceled by City, acting through its City Manager, with or without cause, at any time during the term hereof, upon written notice to the Licensee of its desire to terminate this Agreement. It is expressly understood by the parties that Licensee is receiving from City a revocable license, which may be terminated at any time by City for any or no cause whatsoever.

37 Surrender Upon Termination. Licensee shall peaceably surrender and deliver the Licensed Premises to City, or its agents, immediately upon expiration of the term or upon termination of this Agreement. Licensee further agrees that it will leave the Licensed Premises in the condition existing at the commencement of this Agreement, all alterations, adjustments, partitions, additions, or improvements excepted, and normal wear and tear excepted, subject to the repair and maintenance obligations provided in this Agreement.

38. Notice. Any notice or communication under this Agreement shall be in writing and may be given by registered or certified mail. If given by registered or certified mail, the notice or communication shall be deemed to have been given and received when deposited in the United States Mail, properly addressed, with postage prepaid. If given otherwise, then by registered or certified mail, it should be deemed to have been given when delivered to and received by the party to whom it is addressed. The notices and communication shall be given to the particular parties at the following addresses:

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

Licensee: John Reardon
JPR Productions, Inc.
8376 Trent Court Unit C
Boca Raton, FL 33433

Either party may at any time by giving ten (10) days written notice designate any other person or entity or any other address in substitution of the foregoing to which the notice or communication shall be given.

39. Subtitles and Captions. Paragraph headings are for reference purposes only and in the event that such paragraph headings conflict with any of the substantive paragraphs of this Agreement, the paragraph headings shall be disregarded.

40. Third Party Beneficiaries. Neither Licensee nor City intends to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a right or claim against either of them based upon this Agreement.

41. Severance. In the event this Agreement or a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless City or Licensee elects to terminate this Agreement. The election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the

court becomes final.

42. Joint Preparation. The parties hereto acknowledge that they have sought and received whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been a joint effort of the parties, the language has been agreed to by parties to express their mutual intent, and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other. Prior Agreements. This document represents the final and complete understanding of the parties and incorporates or supersedes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein. The parties agree that there is no commitment, agreement, or understanding concerning the subject matter of this License that is not contained in this written document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representation or agreement, whether oral or written.

43. Priority of Provisions. If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference, and a term, statement, requirement, or provision of this Agreement, the term, statement, requirement, or provision contained in this Agreement shall prevail and be given effect.

44. Controlling Law. This Agreement shall be deemed to be made and shall be in accordance with the laws of the State of Florida which will be controlling in any dispute that arises pursuant to this Agreement.

45. Jurisdiction, Venue, Waiver of Jury Trial, and Attorney's Fees. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. All parties agree and accept that jurisdiction of any controversies or legal problems arising out of this Agreement, and any action involving the enforcement or interpretation of any rights hereunder, shall be exclusively in the state courts of the Fifteenth Judicial Circuit in Palm Beach County, Florida, and venue for litigation arising out of this Agreement shall be exclusively in such state courts, forsaking any other jurisdiction which either party may claim by virtue of its residency or other jurisdictional device. It is hereby understood and agreed that in the event any lawsuit in the judicial system, federal or state, is brought to enforce compliance with this Agreement, or interpret same, or if any administrative proceeding is brought for the same purposes, each party shall pay their own attorney's fees and costs, including appellate fees and costs. **BY ENTERING INTO THIS AGREEMENT, LICENSEE AND CITY HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.**

46. Incorporation by Reference. The truth and accuracy of each "Whereas" clause set forth above is acknowledged by the parties.

47. Representation of Authority. Each individual executing this Agreement on behalf of a party hereto hereby represents and warrants that he or she is, on the date he or she signs this Agreement, duly authorized by all necessary and appropriate action to execute this Agreement on behalf of such party and does so with full legal authority.

48. Multiple Originals. This Agreement may be executed in two (2) copies, each of which shall be deemed to be an original.

49. PUBLIC RECORDS. IF THE LICENSEE HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE LICENSEE'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT CITY OF DELRAY BEACH, CITY CLERK, 100 N.W. 1ST AVE., DELRAY BEACH FLORIDA. THE CITY CLERK'S OFFICE MAY BE CONTACTED BY PHONE AT 561-243-7050 OR VIA EMAIL AT CITYCLERK@MYDELRAYBEACH.COM.

a. Licensee shall comply with public records laws, specifically to:

- i. Keep and maintain public records required by the City to perform the service.
- ii. Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Florida Statute or as otherwise provided by law.
- iii. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Agreement and following completion of this Agreement if the Licensee does not transfer the records to the City.
- iv. Upon completion of this Agreement, transfer, at no cost, to the City all public records in possession of the Licensee or keep and maintain public records required by the City to perform the service. If the Licensee transfers all public records to the City upon completion of this Agreement, the Licensee shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Licensee keeps and maintains public records upon completion of this Agreement, the Licensee shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.
- v. If the Licensee does not comply with this section, the City shall enforce the contract provisions in accordance with the contract and may unilaterally cancel this contract in accordance with state law.

50. Inspector General: Licensee is aware that the Inspector General of Palm Beach County has the authority to investigate and audit matters relating to the negotiation and performance of this contract and may demand and obtain records and testimony from Licensee and its sublicensees and lower tier sublicensees. Licensee understands and agrees that in addition to all other remedies and consequences provided by law, the failure of Licensee or its sublicensees or lower tier sublicensees to fully cooperate with the Inspector General when requested may be deemed by the City to be a material breach of this Agreement justifying its termination.

51. E-Verify. By entering into this Agreement Contractor acknowledges its obligation to comply with the provisions of Section 448.095, Fla. Stat., "Employment Eligibility." Contractor affirms and represents it is registered with the E-Verify system, utilizing same, and will continue to utilize same as required by law. Compliance with this section includes, but is not limited to, utilization of the E-Verify System to verify the work authorization status of all newly hired employees and requiring all subcontractors to provide an affidavit attesting that the subcontractor

does not employ, contract with, or subcontract with, an unauthorized alien. Failure to comply with this section will result in the termination of this Agreement, or if your subcontractor knowingly violates the statute, the subcontract must be terminated immediately. Any challenge to termination under this provision must be filed in the Circuit Court no later than 20 calendar days after the date of termination. If terminated for a violation of the statute by Contractor, the Contractor may be prohibited from conducting future business with the City or awarded a solicitation or contract for a period of 1 year after the date of termination. All costs incurred to initiate and sustain the aforementioned programs shall be the responsibility of the Contractor.

52. Entire Agreement. This Agreement constitutes the entire agreement between City and Licensee and may not be altered, amended, or modified except by an instrument in writing signed by the parties to the agreement with all the same formalities as this Agreement.

53. Amendments. No modification, amendment or alteration of the terms or conditions contained herein shall be effective unless contained in a written document executed by the parties hereto, with the same formality and of equal dignity herewith.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their proper officials on the day and year first above written.

ATTEST:

CITY OF DELRAY BEACH

Katerri Johnson, City Clerk

By: _____
Shelly Petrolia, Mayor

Approved as to form and legal sufficiency:

Lynn Gelin, City Attorney

JPR PRODUCTIONS, INC.:

John Reardon

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this ____ day of _____, 20__, by _____ (name of person), as _____ (type of authority) for _____ (name of party on behalf of whom instrument was executed).

Personally known ____ OR Produced Identification ____
Type of Identification Produced _____

Notary Public – State of _____