

Indian River County Holman Stadium Use Agreement

This Holman Stadium Use Agreement ("Agreement") is made this 2nd day of May, 2023, by and between Indian River County Board of County Commissioners, a political subdivision of the State of Florida ("County") and the Indian River County Bar Association, Inc., a Florida not-for-profit corporation, 1245 20th Street, Vero Beach, FL 32960 ("User Group").

BACKGROUND RECITALS

- A. The User Group has requested the use of Holman Stadium facilities and/or the four (4) baseball practice fields and the two (2) half baseball practice fields (collectively referenced as "Stadium") under the terms and conditions set forth in the Indian River County Holman Stadium Use Guidelines, attached to this Agreement as Exhibit 1 and incorporated herein in its entirety by this reference and under the terms and conditions set forth in this Agreement.
- B. The County will allow the User Group to use the Stadium under the terms and conditions set forth in Exhibit 1 and under the terms and conditions set forth in this Agreement.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound, the parties agree as follows:

- 1. **PERIOD OF USE.** This Agreement shall be in force on May 19, 2023 and includes all setup and clean up time.
- 2. **NUMBER OF PARTICIPANTS EXPECTED.** User Group estimates that the number of participants expected at the event is from 200 to 600 up to seating capacity of 6,500.
- 3. **DESCRIPTION OF EVENT.** User Group states that the following is an accurate description of the event: A Charity Co-Ed Softball Game between Local Doctors and Attorneys.
- 4. **INSURANCE.** The minimum dollar amounts and types of insurance coverages required are set forth in Exhibit 2 attached hereto and incorporated herein in its entirety by this reference.
- 5. **FEES.** The User Group agrees to pay all Stadium use charges as set forth in Exhibit I, including, without limitation, the charges set forth in paragraphs C, D, F, G, H, and I. Where the User Group uses the services of VeroTown, LLC for parking attendants, ticket takers, security personnel, clean-up crews, or concession operations, the User Group acknowledges and agrees that the County shall cause VeroTown, LLC: (i) to provide a written invoice for such services to the User,

together with a courtesy copy to the County within ten (10) business days after the conclusion of the event; and (ii) to remit the net funds, if any, to the User Group. In addition, all costs for utilities and any other costs incurred by VeroTown, LLC in connection with the User Group's use of the Stadium shall be set forth on the foregoing written invoice, and such costs shall also be deducted from the net funds, if any, and remitted to the User Group. Upon the County's receipt of the notice of invoice payments from VeroTown, LLC, the security deposit shall be returned to the User Group; provided, however, that in the event the costs invoiced by VeroTown, LLC exceed the funds available, the County shall have the right to use the security deposit for such costs. In addition, the User Group agrees to be solely responsible to pay any and all additional charges required for the staging of the event. VeroTown, LLC reserves the right to modify the foregoing process to accommodate any arrangement made directly with the User Group to provide concessionaire services for the event.

6. INDEMNIFICATION AND WAIVER OF CLAIMS. The User Group assumes all risks and agrees to indemnify fully and save and hold harmless the County, its officers, employees, and agents (hereinafter individually and collectively referenced as "Indemnified County Parties"), and VeroTown, LLC, their respective owners, share holders, officers, employees, representatives, agents, heirs, successors, and assigns (hereinafter individually and collectively referenced as "Indemnified VeroTown, LLC Parties") against all claims, losses, damages, judgments, liabilities, accidents or injuries to person(s) or property, and causes of action, including reasonable attorney's fees and court costs, arising out of, or caused directly or indirectly, by the conduct, acts, omissions, negligence, or willful misconduct of any participant in the event, the User Group, its visitors, agents, and employees. The Indemnified County Parties, and the Indemnified VeroTown, LLC Parties shall not be liable for damages to, or loss of, personal property sustained by the participants in the event, the User Group, its visitors, agents, employees, or any person claiming by or through the User Group or any of the foregoing, resulting from any fire, accident, occurrence, theft, or condition in or upon the Stadium, provided such are not due to the sole negligence or willful misconduct of the Indemnified County Parties or the Indemnified VeroTown, LLC Parties. This indemnification paragraph shall survive the expiration or sooner termination of this Agreement.

7. CANCELLATION. This Agreement is subject to cancellation by either the User Group or the County as set forth in Exhibit 1.

8. FACILITY UNAVAILABILITY DISCLAIMER. The County assumes no responsibility for circumstances that may require the closing of the Stadium facility due to conditions that would render it unfit for public usage due to inclement weather, state health department or other regulatory agencies requirements. In the event of such occurrence it is the responsibility of the User Group to obtain alternative facilities and the County shall have no liability whatsoever to the User Group. The County and VeroTown, LLC represent that to the best of their knowledge and belief, that VeroTown, LLC is now and will remain in good standing with all State

and local regulatory agencies having jurisdiction, if any to regulate, license, and permit the activities contemplated by this Agreement.

9. **GOVERNING LAW.** The laws of the State of Florida shall govern this Agreement and any and all legal action shall be instituted in Indian River County for all state court matters and in the Southern District of Florida for all federal court matters.

10. **ENTIRETY OF AGREEMENT.** The Agreement incorporates and includes all prior and contemporaneous negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements, or understandings of any nature whatsoever concerning the subject matter of this Agreement that are not contained in this Agreement. No supplement, modification, or amendment to this Agreement shall be binding unless signed in writing by the County and the User Group.

11. **SEVERABILITY.** In the event that any of the provisions of this Agreement are deemed unenforceable, the enforceability of the remaining provisions of this Agreement shall not be affected.

12. **ASSIGNMENT.** User Group shall not grant, assign, or otherwise convey to anyone any or all of its rights to use the Stadium hereunder without the prior written consent and approval of the County and VeroTown, LLC. The User Group shall use the Stadium only in the manner contemplated in this Agreement.

13. **THIRD PARTY BENEFICIARY.** No person other than VeroTown, LLC, the County, the Indemnified County Parties, the Indemnified VeroTown, LLC Parties, and the User Group, and the successors of the User Group shall have any rights whatsoever under this Agreement.

14. **BACKGROUND RECITALS.** The Background Recitals are true and correct and form a material part of this Agreement.

15. **DEFAULT.** County shall have the right to terminate this Agreement and/or deny User Group use of the stadium if User Group defaults in the performance of any obligation hereunder, provided that in the event of such default, the County shall give the User Group notice of such default and twelve (12) hours to cure the default or a lesser time if appropriate to the default on the day of the event.

16. **NOTICES.** Any notices or other written communications from the User Group to the County shall be delivered by fax, overnight mail, hand delivery, or first class mail to the County Recreation Director. Any notices or other communications from the County to the User Group shall be delivered by fax, overnight mail, hand delivery, or first-class mail to the User Group Executive Director. The names and address to be contacted are as follows:

As to the County:

Indian River County Board of County Commissioners
Attn: Michael C. Zito, Assistant County Administrator
1801 27th Street, Vero Beach, FL 32960-3398
mzito@ircgov.com

As to the User Group :

Dane R. Ullian
Indian River County Bar Association, Inc.
P. O. Box 896
Vero Beach, FL 32961
dullian@gouldcooksey.com
(772) 231-1100
www.IndianRiverBar.org

IN WITNESS WHEREOF, the County and the User Group have caused this Agreement to be executed in their respective names as of the date set forth above.

USER GROUP:
Indian River County Bar Association, Inc.

INDIAN RIVER COUNTY, FLORIDA:
BOARD OF COUNTY COMMISSION

BY: _____

BY: _____

Joseph H. Earman, Chairman

Print Name:

Approved as to form and legal
sufficiency:

Dylan Reingold, County Attorney