

Re-STATED PROPERTY LEASE
Northern Lights Arena

County of Alpena, c/o Alpena County Board of Commissioners, Attention: Board Secretary, of 720 W. Chisholm St, Alpena Michigan, the lessor, and **Alpena Rink Management, LLC**, of 751 Woodward Ave, Alpena, Michigan, the lessee, enter into this lease subject to the following conditions:

1. Premises. The lessor leases to the lessee the property located at 751 Woodward Ave, Alpena, Michigan, and more fully described on the attached Exhibit A.
2. Term. The term of this lease shall be 5 years, commencing on April 28, 2021. This lease may be renewed for a three (3) year extension, provided same is requested by lessee by no later than October 27, 2025, and the renewal is approved in writing by lessor by January 27, 2026. Lessor may terminate this lease by giving lessee ninety (90) days written notice. Lessee may also terminate this lease by giving lessor ninety (90) days written notice. Lessee agrees that in the event of early termination hereunder, it shall remain responsible for all bills, fees or other charges incurred prior to the date it vacates the premises, including any bills, fees or costs under contract for future delivery or performance. In the even of early termination by either party pursuant hereto, the security deposit provided for in paragraph 4 will be held by lessor for six (6) months after the premises are vacated against any amounts due and owing under this agreement.
3. Rent.
 - a. Base rent. The lessee shall pay the lessor \$1.00 per year as base rent for the premises, starting on the commencement date. Rent shall be paid to the lessor at the address shown above or any other place designated in writing by the lessor.
 - b. Additional rent.
 - (1). The lessee shall be responsible for the payment of business, sales and employee taxes and insurance (except property insurance which the lessor shall pay) on the premises as required by this lease and all the utility services for the premises, including water, sewer, gas, electricity, heat, and other services delivered to the premises. Lessee shall pay when due all such utilities and keep same current during the term of this agreement, and provide proof of such payment when making its monthly reports to Lessor as required hereunder. At the termination of this agreement, Lessee shall coordinate with Lessor the transfer of billing responsibility back to Lessor, but will only do so with the knowledge and consent of Lessor.
 - (2). The lessee shall pay monthly into the Northern Lights Arena "Surcharge Fund" maintained by the Lessor, the sum of \$1.00 per ticket for all events where the lessee collects the gate. For events where the premises are rented to a private company for an event, and the private company collects the gate, or for "general admission/non-ticketed/non-ice or "no charge" events, then in that event a flat fee for each day of such event shall be paid, which amount shall be either 5% of the base rental rate per day for

such events, or \$100.00 per day, whichever is greater. When there is any dispute or ambiguity in regard hereto, the “NLA Surcharge Collection & Use Policy” attached hereto as Exhibit B shall control. It is the responsibility of lessee to add and collect such amounts as part of its contract with such private companies, and pay same to lessor as provided herein. The lessor shall set such funds aside to be used as set forth in the “Northern Lights Surcharge Collection & Use Policy” as attached as Exhibit B.

Commented [MCH1]: Revised to refer to new consolidated surcharge policy

(3). The lessee agrees to pay the first Six Thousand (\$6,000.00) annually of all repairs and maintenance to the facility which would otherwise be paid out of the Surcharge Fund as set forth in the Northern Lights Surcharge Collection & Use Policy, Exhibit B. It is agreed that all maintenance work will be performed as required, and not deferred, and that all such work will first be approved by the County’s Maintenance Superintendent or County Administrator, as so designated, and the actual work be inspected and found acceptable during the performance of such work and upon completion. Please initial showing specific understanding and agreement of the foregoing sub-section:

Commented [MCH2]: Removed reference to Treasurer 'approving' suitability for counting as part of \$6k

Lessor/County: _____; Lessee/NLA _____.

(4). The Lessor shall pay for Property Insurance coverage as more specifically set forth in Paragraph 14 (A) hereof.

(5). The lessee shall pay monthly, commencing April 28, 2021, the amount listed on the attached amortization schedule (Schedule G), which amount represents the prorated bond payments attributable to this facility as determined by the Alpena County Treasurer.

(6). The lessee shall pay for all other services contracted for by the lessee as soon as an invoice is presented so that no past due accounts arise. In addition, any fees, costs, or expenses incurred by the lessor for enforcing the lessee's obligations under this lease, including reasonable attorney fees, shall be additional rent owing under the lease and shall be immediately due and payable by the lessee.

4. Security deposit. The lessor shall retain the security deposit of \$15,000.00, as previously paid by lessee. The lessor may hold the security deposit in any manner the lessor chooses. The deposit will be held in a secure, non-interest bearing escrow account in the name of lessor, which will only be used for damages caused by lessee and/or for unpaid rent hereunder. Any balance not used for such purpose will be returned to lessee at the end of this lease, and pursuant to paragraph 2, above. No interest shall be paid on the security deposit during the term of this lease. At the end of the lease term, the security deposit shall be returned to the lessee unless the lessee has defaulted under the security and option agreements signed on the same date as this lease. If the lessee defaults under this lease or the option agreements, the security deposit may be used to pay any costs or damages, direct or contingent, of the lessor under these agreements.
5. Signs. All signs placed on the premises shall be in keeping with the character and decor of the premises.

6. Acceptance of occupancy. The lessee shall commence occupancy of the premises on the commencement date and begin paying rent as required by this lease. The lessee acknowledges that the premises are in a state of repair that is acceptable for the lessee's intended use of the premises.
7. Vacation of the premises. The lessee shall not vacate or abandon the premises during the term of this lease. If the lessee does abandon or vacate the premises or is dispossessed by process of law or otherwise, any of the lessee's personal property that is left on the premises shall be deemed abandoned by the lessee, at the option of the lessor.
8. Use. The premises are to be used and occupied by the lessee for community recreation and entertainment. No activity shall be conducted on the premises that does not comply with all state and local laws.
9. Repairs and maintenance. The lessee shall be responsible for all maintenance and repair of the premises. The lessee must repair and maintain the premises at the lessee's expense. The premises shall be kept in good and safe condition, including any plate glass windows, the electrical wiring, the plumbing, any other system or equipment on the premises, structural members of all buildings, and other improvements on the premises. This provision is subject to the following policies of lessor which are attached hereto as Exhibits "B", "C", and "D". "Northern Lights Surcharge Collection & Use policy", "Property Disposal policy" and "County Purchasing & procurement Policy". Any changes in such policies will become part of this lease 30 days after such changes are provided to lessee by written notice.
10. Surrender of the premises. The lessee shall surrender the premises to the lessor when this lease expires, broom clean and in the same condition as on the commencement date, except for normal wear and tear.
11. Entry and inspection. The lessee shall permit the lessor or the lessor's agents to enter the premises at reasonable times and with reasonable notice, to inspect and repair the premises. During the 90 days before the lease expires, the lessee shall permit the lessor to place standard "For Lease" signs on the premises and permit persons desiring to lease the premises to inspect the premises. Maintenance records of the facility, and all systems and equipment records, are to be maintained and made available for inspection by Lessor at reasonable times and with reasonable notice.
12. Alterations. The lessee may not remodel and improve the premises without the express written permission of the Lessor. Such work shall be done without injury to any structural portion of the building. Any improvements constructed on the premises shall become the property of the lessor when this lease terminates.
13. Assignment and subletting. The lessee may not assign, sublet, or otherwise transfer or convey its interest or any portion of its interest in the premises without written consent from the lessor. The lessor shall have total discretion on its approval of proposed assignments or subleases.
14. Insurance. The Lessor shall secure and maintain property insurance during the terms of the Agreement:

Commented [MCH3]: Updated policy references
...

(A) Property Insurance: Property Insurance coverage is provided by lessor under its existing insurance program.

The Lessee shall secure, maintain and furnish evidence of insurance to the Lessor, prior to and during the terms of the Agreement with the following required coverage's:

(B) Comprehensive General Liability or Commercial General Liability: Coverage shall be occurrence based, and shall provide bodily injury, property damage and personal injury protection to the Lessee. Said policy will provide limits of liability not less than \$1,000,000 per occurrence and not less than \$2,000,000 per policy aggregate.

(C) Umbrella Insurance: Coverage shall be occurrence based, and follow form to the underlying limits of liability. Limits of Liability shall be not less than \$2,000,000.

(D) Worker's Compensation Insurance: The Lessee will provide coverage which shall include Employers Liability to cover Employers obligations under the Workers' Compensation Statutes, or similar laws of the state in which work is conducted under Agreement. Limits of Liability shall be in accordance with the state statute.

(E) Contents insurance: Coverage for Lessee's contents in the building is at the Lessee's option. It is understood that Lessee's contents are not covered by nor the liability of the Landlord, in the event of loss or damage.

If, during the term of this Agreement, changed conditions or other pertinent factors, should in the reasonable judgment of the Lessor, render inadequate the insurance limits, the Lessee will make reasonable efforts to obtain such additional coverage as may reasonably be required and available under the circumstances. The insurance must be affected under valid and enforceable policies, issued by recognized, responsible Michigan insurers that are well rated by national rating organizations.

Insurance policies purchased hereunder by Lessee will name the Lessee as the named insured and the Lessor as an additional insured.

In the event the Lessee's insurance coverage, including workers compensation, comprehensive general liability, umbrella insurance and any contents insurance required under this Agreement, is at any time reduced or terminated during the duration of the Agreement, the Lessee's insurer shall provide the Lessor with at least thirty (30) days' prior written notification of such reduction or termination. The policies, where allowable by law, may not be canceled or materially altered without at least 60 days written notice to the Lessor.

15. The lessee's liability. All the lessee's personal property, including trade fixtures, on the premises shall be kept at the lessee's sole risk, and the lessor shall not be responsible for any loss of business or other loss or damage that is occasioned by the acts or omissions of persons occupying adjoining premises or any part of the premises adjacent to or connected with the premises. Any equipment placed within or used as part of the operation of the facility, including inventory for sale, furnishings, or items of equipment, will be deemed to be the property or assets of the Lessee, or its user groups unless attached as a fixture to the facility, whether such items

were “donated” to Lessee during the term of this agreement or otherwise obtained and placed by the Lessee. Such items will therefore be removed from the premises by the Lessee at the termination of this agreement for any reason whatsoever, or at the end of the term hereof. However, the Lessors personal property assets, (not including fixtures which are defined as owned by the Lessor herein) that are listed in the Attached Schedule H, are the property of the Lessor and shall remain in the premises upon termination of this lease.

16. Destruction of the premises. If the premises are partially damaged or destroyed through no fault of the lessee, the lessor shall, at its own expense, promptly repair and restore the premises. If the premises are partially damaged, rent shall not abate in whole or in part during the period of restoration. If the premises are totally destroyed through no fault of the lessee or if the premises cannot be repaired and restored within 180 days, either party may terminate this lease effective the date of the destruction by giving the other party written notice of termination within 10 days after the destruction. If such a notice is given within that period, this lease shall terminate and rent shall be adjusted between the parties to the date of the surrender of possession. If the notice is not given within the required period, this lease shall continue, without abatement of rent, and the lessor shall repair the premises.

17. Additional Duties of Lessee.

Whereas, Lessor leases the facility with the expectation that programs and services will be provided by Lessee to the citizens of the County within such facility, and

Whereas, such programs and services are a proper concern of the Lessor and are programs and services that the Lessor could otherwise provide pursuant to law,

Now therefore, in addition to the other obligations of Lessee hereunder, the Lessee further agrees as follows:

- a. Develop, administer and operate the facility.
- b. Provide the necessary administrative, professional and technical staff for the operation of the facility, and be responsible for such staff members.
- c. Provide an annual budget, monthly financial reports compared to budget and a report on operations that include any items that might come to the attention of the County.
- d. The agreement will then be reviewed the 1st of July each year unless Lessor terminates for any reason. If there is a termination, then the Lessee shall be given a 30 day notice. The financial budgeting and reporting shall continue on a calendar basis, commencing on the 1st day of January 2019.
- e. The Lessee’s accounting procedures and internal financial controls shall conform to generally accepted accounting practices in order that the costs allowed by this Agreement can be readily ascertained and expenditures verified therefrom.
- f. The Lessee shall prepare and submit financial reports on a monthly basis. All other documentation pursuant to this Agreement shall be available for inspection by

authorized representatives of the Lessor and shall be submitted to the Lessor upon request.

- g. The Lessee shall prepare and submit to the Lessor the following reports:
 - (1). An annual report, including programmatic and financial data, on the activities of the Lessee and the services provided pursuant to this Agreement, shall be submitted.
 - (2) Lessee shall report to lessor any damage to the premises or equipment within 48 hours of the event (holidays and weekends excluded).
 - (3). Further evaluation reports when and as requested by the Lessor.
 - (4). The Lessor shall determine what information shall be contained in each of the aforementioned reports. If any report is not completed to the satisfaction of the Lessor, the Lessor shall return the same to the Lessee, setting forth the additional information desired. The Lessee shall resubmit the report with the appropriate changes no later than five (5) business days after its return by the Lessor. The Lessee shall submit any other reports to the Lessor when and as requested by the Lessor provided at least five (5) days' prior written notice is given to the Lessee.
- h. In the event the Lessor furnishes forms for any of the reports required under this Agreement, the Lessee shall use such forms.
- i. The Lessee shall keep and maintain records covering persons served, the services rendered and expenditures made pursuant to this Agreement for three (3) years after termination of this Agreement or until a final audit has been performed, whichever occurs later. In the event an audit has not been performed within said three (3) year period, the Lessee shall notify the Lessor in writing and request such an audit or permission to dispose of the records.
- j. The Lessee, as required by law, shall not discriminate against a person to be served or an employee or applicant for employment with respect to hire, tenure, terms, conditions or privileges or employment, or a matter directly or indirectly related to employment because of race, color, religion, national origin, age, sex, disability that is unrelated to individual's ability to perform the duties of a particular job or position, height, weight, or marital status. The Lessee shall adhere to all applicable Federal, State, and local laws, ordinances, rules and regulations prohibiting discrimination, including, but not limited to, the following:
 - A. The Elliot-Larsen Civil Rights Act, 1976 PA 453, as amended.
 - B. The Persons with Disabilities Civil Rights Act, 1976 PA 220, as amended.
 - C. Section 504 of the Federal Rehabilitation Act of 1973, P.L. 93-112, 87 Stat 394, and regulations promulgated thereunder.
 - D. The Americans with Disabilities Act of 1990, P.L. 101-336, 104 Stat 328 (42 USCA §12101 et seq), as amended, and regulations promulgated thereunder.

Breach of this section shall be regarded as a material breach of this Agreement. In the event the Lessee is found not to be in compliance with this section, the Lessor may terminate this Agreement effective as of the date of delivery of written notification to the Lessee.

- k. The Lessee shall oversee the facility and provide all the services to be performed under this Agreement in complete compliance with all applicable Federal, State and local laws, ordinances, rules and regulations
18. Mutual releases. The lessor and the lessee, and all parties claiming under them, release each other from all claims and liabilities arising from or caused by any hazards covered by insurance on the leased premises or covered by insurance in connection with property or activities on the premises, regardless of the cause of the damage or loss. The lessor and the lessee shall each include appropriate clauses waiving subrogation against the other party, consistent with the mutual release in this provision, in their insurance policies on the premises.
19. Condemnation. If any part of the premises is taken for any public or quasi-public purpose pursuant to any power of eminent domain, or by private sale in lieu of eminent domain, either the lessor or the lessee may terminate this lease, effective the date the public authority takes possession. All damages for the condemnation of the premises, or damages awarded because of the taking, shall be payable to and the sole property of the lessor.
20. Indemnity. The lessee agrees to indemnify and defend the lessor for any liability, loss, damage, cost, or expense (including attorney fees) based on any claim, demand, suit, or action by any party with respect to any personal injury (including death) or property damages, from any cause, with respect to the lessee or the premises, except for liability resulting from the intentional acts or gross negligence of the lessor or its employees, agents, invitees, or business visitors.
21. Default and reentry. If the lessee fails to pay rent when due; if the lessee fails to perform any other obligations under this agreement within 10 days after receiving written notice of the default from the lessor; if the lessee makes any assignment for the benefit of creditors or a receiver is appointed for the lessee or its property; or if any proceedings are instituted by or against the lessee for bankruptcy (including reorganization) or under any insolvency laws, the lessor may terminate this lease, reenter the premises, and seek to relet the premises on whatever terms the lessor thinks advisable. Notwithstanding reentry by the lessor, the lessee shall continue to be liable to the lessor for rent owed under this lease and for any rent deficiency that results from reletting the premises during the term of this lease. Notwithstanding any reletting without termination, the lessor may at any time elect to terminate this lease for any default by the lessee by giving the lessee written notice of the termination.

In addition to the lessor's other rights and remedies as stated in this lease, and without waiving any of those rights, if the lessor deems necessary any repairs that the lessee is required to make or if the lessee defaults in the performance of any of its obligations under this lease, the lessor may make repairs or cure defaults and shall not be responsible to the lessee for any loss or damage that is caused by that action. The lessee shall

immediately pay to the lessor, on demand, the lessor's costs for curing any defaults, as additional rent under this lease.

22. Subordination. This lease and the lessee's rights under it shall at all times be subordinate to the lien of any mortgage the lessor places on the premises or to any collateral assignment the lessor makes of this lease or of rent under this lease. However, as long as the lessee is not in default under this lease, the foreclosure of a mortgage given by the lessor shall not affect the lessee's rights under this lease. At the request of any lienholder, the lessee shall provide the lessor with a customary tenant's estoppel letter regarding the status of this lease. If the lessor defaults on the payment of its mortgage on the premises, the lessee may make the monthly payment owed under the mortgage note and deduct that amount from the rent owed under this lease.
23. Notices. Any notices required under this lease shall be in writing and served in person or sent by registered or certified mail, return receipt requested, to the addresses of the parties stated in this lease or to such other addresses as the parties substitute by written notice. Notices shall be effective on the date of the first attempted delivery.
24. The lessee's possession and enjoyment. As long as the lessee pays the rent as specified in this lease and performs all its obligations under this lease, the lessee may peacefully and quietly hold and enjoy the premises for the term of this lease.
25. Holding over. If the lessee does not vacate the premises at the end of the term of this lease, the holding over shall constitute a month-to-month tenancy at a monthly rental rate to be set by the lessor at its sole discretion.
26. Entire agreement. This agreement, together with the security and option agreement entered into between the lessor and the lessee, contains the entire agreement of the parties with respect to its subject matter. This agreement may not be modified except by a written document signed by the parties.
27. Waiver. The failure of the lessor to enforce any condition of this lease shall not be a waiver of its right to enforce every condition of this lease. No provision of this lease shall be deemed to have been waived unless the waiver is in writing.
28. Binding effect. This agreement shall bind and benefit the parties and their successors and permitted assigns.
29. Time is the essence. Time is of the essence in the performance of this lease.
30. Effective date. This lease shall be effective April 28, 2021.
31. Schedules. The Schedules A-H are attached hereto and incorporated herein as part of the terms of this lease.

Lessor

Lessee

County of Alpena

Alpena Rink Management, LLC

By: Bill Peterson
Chairman of the Board

By: David J. Guzman
Operations Manager

By: Jeremy Winterstein
Maintenance Manager

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