

GALVESTON INDEPENDENT SCHOOL DISTRICT
TOR SOFTBALL FIELD
SCOREBOARD SPONSOR ADVERTISING AGREEMENT

This Advertising Agreement (“Agreement”) is made and entered into as of December 16, 2021 (“Effective Date”), by and between Galveston Independent School District (“GISD”), at 3904 Avenue T, Galveston, Texas 77550, and UTMB (“Sponsor”), at 301 University Blvd., Galveston, TX 77555.

WHEREAS, GISD has the exclusive right to market, sell, and control all advertising displayed at GISD’s TOR Softball Field (“Softball Field”) located at 3103 83RD Street, Galveston, TX 77554; and

WHEREAS, GISD has the exclusive right to grant licenses to parties to use scoreboards, marquees and venues or display materials at or on GISD property, including the Softball Field, and to grant licenses to parties, to permit use of GISD intellectual property and promotional materials; and

WHEREAS, Sponsor desires to purchase from the GISD the right to display certain advertising on the scoreboard at the Softball Field for the purpose of promoting the Sponsor’s products or services;

NOW THEREFORE, in consideration of the foregoing, incorporated herein by reference as provisions of this Agreement, the mutual promises set out below, and other good and valuable consideration, the parties agree as follows:

1. **Grant of Advertising and Promotional Rights.** Subject to the terms and conditions of this Agreement, GISD hereby grants and sells to Sponsor, and Sponsor hereby purchases and accepts from GISD, the advertising and promotional rights described on Exhibit A attached hereto (collectively, the “Rights”).
2. **Term of Agreement.** The term of this Agreement (“Term”) is ten (10) years after the final softball season ending July 31, 2022. If the Sponsor desires to renew this Agreement for an additional term, Sponsor shall provide written notice to GISD of such desire no later than thirty (30) days before the expiration of the then existing Term. In the event that this Agreement is renewed, all terms and conditions of this Agreement shall continue in full force and effect except for the Rights Fees and the term of the Agreement and except as otherwise agreed upon by the parties.
3. **Rights Fees.** In consideration of the Rights granted to Sponsors under paragraph 1 of this Agreement, Sponsor shall pay to GISD the sums provided below (the “Rights Fee”).

Sponsor	Amount
UTMB	\$50,000

Payment is due within ten (10) business days of the effective date.

4. **Non-Exclusivity.** Nothing in this Agreement may be construed to imply that Sponsor has the exclusive right to provide GISD goods and services, advertise with, or Sponsor GISD or any GISD

event. During the term of this Agreement, GISD reserves the right to use all available resources to procure other goods, services, and/or advertisers/Sponsors as deemed in the best interest of GISD in GISD's sole discretion and doing so will not violate any rights of the Sponsors.

5. **Termination:**

(a) Termination for Convenience. GISD reserves the right to terminate this Agreement for any reason and without cause at any time during the Term and without penalty by providing thirty (30) days written notice to the Sponsors. In the event that GISD determines, in its sole discretion, that the 30-day notice required by this Paragraph 4(a) would pose a hardship or that immediate termination of this Agreement would be in the best interest of GISD, GISD may provide notice of immediate termination and this Agreement shall terminate upon notice. In the event that GISD desires to terminate the Agreement for convenience as set forth in this Paragraph 5(a), GISD agrees to return a prorated portion of the Rights Fees that have been paid.

(b) Termination for Cause. Either party may terminate this Agreement for cause at any time that the other party breaches any of its obligations under this Agreement. Notwithstanding the foregoing, a breach shall not be deemed to have occurred if either party is delayed or interrupted in fulfillment of its obligations as a result of a Force Majeure as defined in Paragraph 8(a). In the event of breach, the non-breaching party shall have the option to immediately cease all performance under this Agreement. If such breach results from the failure by Sponsors to pay the Rights Fees or any other monetary obligations of SPONSOR hereunder by the dates when due under this Agreement, GISD may exercise its right to terminate this Agreement, retain all Rights Fees or other payments previously made by Sponsors, and pursue any and all remedies available in equity or at law. In the case of a breach of this Agreement for any reason other than non-payment, the non-breaching party shall provide the breaching party with written notice of the alleged breach and the breaching party shall have five (5) business days in which to commence curing the breach and thirty (30) days within which to cure the breach to the reasonable satisfaction of the non-breaching party. If the breaching party fails to cure to the reasonable satisfaction of the non-breaching party within thirty (30) days after the date such written notice is given, the non-breaching party may, in addition to any other remedies which may be available to it under the circumstances, terminate this Agreement effective immediately by providing written notice of such termination to the breaching party.

6. **Provisions Regarding Advertising Copy.** Provisions regarding advertising, sideline signs, static digital impressions, PA announcements, etc. (hereinafter referred to as "Advertising Copy"), approval of Advertising Copy, and standards of approval are set forth in GISD Board Policy and applicable Regulations which are incorporated herein as if set forth in full.

7. **Retained Rights to Intellectual Property.** Sponsors' logos, trademarks, service marks, composite marks, design work, and other creative content prepared by or for Sponsor that are displayed on or in the Advertising Copy, and all trademark rights or copyrights in such Advertising Copy (collectively, "Sponsor Intellectual Property"), shall be and remain the sole and exclusive property of Sponsor. Throughout the Term of this Agreement, Sponsor grants GISD a non-exclusive limited license to publish, distribute and display Sponsor's Intellectual Property on and/or in the Advertising Copy or on any other items or materials consistent with the terms and purposes of this Agreement. The GISD's name, logo, service marks, composite marks, creative

content, trademark rights, copyrighted material and related materials and work, including without limitation any such property that is displayed on or in Advertising Copy with the written consent of GISD (collectively, "GISD Intellectual Property") shall be and remain the sole and exclusive property of GISD. Any and all advertising or promotional materials displayed or distributed by Sponsor pursuant to this Agreement in conjunction with any GISD Intellectual Property shall be subject to the prior written approval of GISD, and, if approved, shall be subject to the grant of non-exclusive limited license that automatically expires upon the expiration or termination of this Agreement. Neither party shall have the right to use in any way or reproduce for any purpose the corporate or trade names, trademarks, service marks, logos, or other proprietary symbols of the other party without that party's prior written consent.

8. **Force Majeure.**

(a) Definition of "Force Majeure". For purposes of this Agreement, "Force Majeure" shall mean and include any event beyond GISD's reasonable control (including, but not limited to fire; flood; explosions; weather events; damage by third parties, whether negligently or intentionally caused; work stoppages; picketing; lockouts and/or any other concerted action by any employees; acts of God or other casualties; pandemics, the laws or actions of any governmental authority; or any other event or cause that is beyond the reasonable control of GISD), as a result of which, at any time and from time to time during the Term, (1) the display of the Advertising Copy is suspended or prevented; or (2) any event, including a GISD athletic event, is not held, is interrupted, or is suspended, at the Softball Field.

(b) Options in Event of Force Majeure. If a Force Majeure occurs during any Contract Year during the Term, GISD shall have the option, upon written notice to Sponsor, (i) to extend the Term of this Agreement beyond its expiration to make up for lost exposure by the Sponsor; (ii) to terminate this Agreement, pay the Termination Fee Adjustment, and reimburse to the Sponsor a reasonable pro-rata amount of the Rights Fees for the current Contract Year that had been paid by the SPONSOR, such an amount to be determined by GISD, in its reasonable discretion, to compensate SPONSOR for the value of the advertising and promotional rights lost prior to termination of the Agreement; or (iii) to provide to SPONSOR advertising and/or promotional rights of substantially equivalent value, as reasonably determined by GISD.

9. **Indemnification**. Sponsor agrees to and hereby defend, indemnify, and hold GISD and its present and future board members/trustees, officers, administrators, employees, stakeholders, other representatives, successors and assigns and their respective subsidiaries, affiliates, partners, officers, directors, employees, stakeholders, shareholders, agents, other representatives, successors and assigns (collectively the "GISD Indemnitees") harmless from and against any and all losses, liabilities, damages, claims, demands, suits, and judgments (collectively, "Claims"), including, without limitation, attorneys' fees and the costs of any legal action, arising out of (i) the use of any trademark, service mark, logo, design, and other intellectual property right materials provided by Sponsors; (ii) the character, content, and subject matter of any Advertising Copy displayed by Sponsors; (iii) any act or omission of the Sponsor related to or in connection with the rights, privileges, or obligations under this Agreement; and (iv) any breach of this Agreement by Sponsor and all costs incurred by the GISD or any Representatives (including but not limited to attorney's fees) as a result of any breach of

this Agreement, the enforcement of this Agreement against Sponsor, or the collection from Sponsor of any amounts due hereunder. The indemnification obligation of Sponsor under this Agreement shall survive expiration or earlier termination of this Agreement.

- 10. **Assignment.** Sponsor shall not have the right or power to assign any of its rights or obligations under this Agreement to any other party without the prior written consent of GISD in its sole discretion. GISD shall not assign any of its rights or obligations under this Agreement to any other party without the prior written consent of Sponsor. Subject to the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the parties and their permitted successors and assigns.
- 11. **Immunity.** The execution of this Agreement and/or the performance by GISD of its obligations hereunder does not, and is not intended to waive or relinquish, and GISD shall not waive or relinquish, any governmental, sovereign immunity or defense from liability or prosecution available to GISD, its trustees, officers, employees, or agents under federal or Texas laws.
- 12. **Governing Law.** The validity, interpretation, and performance of this Agreement shall be governed by and construed in accordance with the laws of the state of Texas, without regard to its choice or law or conflict of law provisions. Exclusive venue for any proceeding that may be instituted in connection with this Agreement and the parties' rights and liabilities hereunder shall be in a court of competent jurisdiction located in Galveston County, Texas.
- 13. **Notices.** All notices or other communications which are required or contemplated by this Agreement ("Notices") shall be in writing. All other may be sent by any delivery method which provides a tracking number and delivery receipt. Notices shall be addressed as provided below (unless a party changes its addresses or addresses through a written notice to the other party that complies with this Paragraph 11):

If to GISD: Galveston Independent School District
P.O. Box 660
Galveston, TX 77553
Attention: Superintendent
Telephone: (409) 766-5100
Electronic mail: notifyfinance@gisd.org

If to SPONSOR: _____

Attention: _____
Telephone: _____
Electronic mail: _____

- 14. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be an original, and all of which shall be deemed to be one and the same instrument.

15. **Relationship of Parties.** This Agreement does not create, and shall not be construed by the parties or any third person as creating, any agency, partnership, joint venture, or employment relationship between the parties. The relationship of the parties under this Agreement shall be solely that of independent contractors. Each party shall be solely responsible for the conduct of its respective agents and employees in connection with that party's performance of this Agreement.
16. **Merger Clause.** This Agreement (including the attached exhibits) is the final, complete, and exclusive statement and expression of the agreement among the parties hereto with relation to the subject matter of this Agreement, supersedes all prior communications with respect to the subject matter contained herein, it being understood that there are no oral representations, understandings, or agreements covering the same subject matter as this Agreement.
17. **Incorporation of Exhibits.** Any and all Exhibits referenced in this Agreement shall be attached to the Agreement, made a part of the Agreement, and incorporated into the Agreement by reference for all purposes including without limitation the following Exhibit:
- Exhibit A Advertising and Promotional Rights
18. **Severability.** In case any provision of this Agreement shall be invalid, illegal, or unenforceable, such provision shall be severed from this Agreement. The validity, legality, and enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired thereby.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed by an authorized representative as of the Effective Date.

SPONSOR:

UTMB

By: _____

Printed Name: _____

Printed Title: _____

Date: _____

GISD:

Galveston Independent School District

By: _____

Printed Name: Dr. Jerry Gibson

Printed Title: Superintendent

Date: _____

GALVESTON ISD
TOR SOFTBALL FIELD
SCOREBOARD AGREEMENT
DECEMBER 16, 2021

EXHIBIT A

UTMB will have rights to the complete ad space at the top of the scoreboard where the words SPONSOR are printed below, with dimensions of 21”H x 24’W. UTMB will need to provide a digital rendition of the artwork for the ad copy and will get to view and approve the scoreboard rendering before production.

