

**PARK CITY MUNICIPAL CORPORATION
FACILITY LICENSE AGREEMENT
GALLERIA PARKING LOT
526 SWEDE ALLEY, PARK CITY, UTAH 84060**

Summit County, State of Utah

THIS AGREEMENT, (hereinafter “Agreement” or “License”), dated the 15th day of January, 2024, is by and between **PARK CITY MUNICIPAL CORPORATION**, a Utah municipal corporation (hereinafter “City” or “Licensor”), and **INTERSPORT, LLC**, an Illinois limited liability company, (hereinafter “Licensee”), whose street address is 303 E Wacker Drive, Suite 2200, Chicago, IL 60601.

WITNESSETH:

In consideration of the mutual agreements herein contained:

A. **Grant of License.** City hereby grants to Licensee, and the Licensee hereby accepts a license for use of the facility described in Paragraph C below (hereinafter “Facility”), subject to the terms and conditions herein set forth.

B. **Purpose.** The license is granted, and Licensee shall have access to the Facility and shall use the Facility for the purpose of Sponsor Activation for Chase Ink giveaways.

C. **Facilities Licensed and License Period.** This License is granted for uses and time periods as further specified below, as approved for Galleria Parking Lot as set forth in **Exhibit A** per the Master Festival License and City Services Agreement and the 2025 City Property Use Matrix (“Matrix”) from January 23 through January 27, 2025, from 11:00 a.m. to 4:00 p.m. daily for the Galleria Parking Lot. Licensee will have until February 3, 2025, to complete all repairs and touch-ups at Galleria Parking Lot. In the event of a conflict, the terms of **Exhibit A** shall control.

AREA:

Galleria Parking Lot – 526 Swede Alley, Park City, Utah

Thursday, 1/23/25 – Monday, 1/27/25

D. **Fees.** Fees are \$60 per parking space per day (10 spaces) from 1/23/25 to 1/27/25 pursuant to the City’s Fee Schedule, for a total of **Three Thousand Dollars (\$3,000.00)**. The Licensee shall remit to City a damage deposit of **Five Hundred Dollars (\$500.00)** as security for any damage to the Facility arising from or connected to the Licensee’s use of the Facility pursuant to this License.

E. **Payment Terms.** The license fee and damage deposit, totaling **Three Thousand Five Hundred Dollars (\$3,500.00)** shall become due and payable upon the execution of this Agreement. The damage deposit shall be refunded to Licensee in full upon determination by the City that no damage was incurred to Facility as a result of this License.

If monies are not paid on or before the due date specified in the Agreement and a copy of the Certificate of Insurance is not received prior to the event, the Agreement is subject to immediate cancellation by the City Manager or designee without further notice and the deposits heretofore collected will be retained as liquidated damages.

F. Indemnification.

Definitions. In this Agreement, the following definitions apply:

- I. **“Indemnifiable Losses”** means the aggregate of Losses and Litigation Expenses.
- II. **“Litigation Expense”** means any reasonable out-of-pocket expense incurred in defending a Proceeding or in any related investigation or negotiation, including court filing fees, court costs, arbitration fees, witness fees, and attorneys’ and other professionals’ fees and disbursements.
- III. **“Loss”** means any amount awarded in, or paid in settlement of, any Proceeding, including any interest but excluding any Litigation Expenses.
- IV. **“Proceeding”** means any investigation, claim, judicial, administrative, or arbitration action or lawsuit, or other cause of action of every kind or character, brought by third parties against the City, its agents, employees, or officers, that arises out of this Agreement or the performance of this Agreement by Licensee or its Subcontractors or subconsultants of any tier, or anyone acting under Licensee’s direction or control, including after the expiration or termination of this Agreement.
 - i. Indemnification. Licensee shall indemnify the City and its agents, employees, and officers against all Indemnifiable Losses arising out of a Proceeding, except to the extent the Indemnifiable Losses were caused by the negligence or willful misconduct of the City.
 - ii. Obligation to Defend. Licensee shall, at its sole cost and expense, defend the City and its agents, employees, and officers from and against all Proceedings, provided that Licensee is not required to defend the City from any Proceeding arising from the sole negligence of the City or its agents, employees, or officers.
 - iii. Tender. Licensee’s obligation to defend will arise upon the City’s tender of defense to Licensee in writing. If the City fails to timely notify Licensee of a Proceeding, Licensee will be relieved of its indemnification obligations to the extent that Licensee was prejudiced by that failure. Upon receipt of the City’s tender of defense, if Licensee does not promptly notify the City of its acceptance of the defense and thereafter duly and diligently defend the City and its agents, employees, and officers, then Licensee shall pay and be liable for the reasonable costs, expenses, and attorneys’ fees incurred in defending the Proceeding and enforcing this provision.

- iv. Legal Counsel. To assume the defense, Licensee must notify the City of their intent to do so. Promptly thereafter, Licensee shall retain independent legal counsel that is reasonably acceptable to the City.
- v. Settlement. After Licensee assumes the defense of a Proceeding, Licensee may contest, pay, or settle the Proceeding without the consent of the City only if that settlement (1) does not entail any admission on the part of the City that it violated any law or infringed the rights of any person, (2) provides as the claimant's sole relief monetary damages that are paid in full by Licensee, and (3) requires that the claimant release the City and its agents, employees, and officers from all liability alleged in the Proceeding.
- vi. Waiver. Licensee expressly agrees that the indemnification provision herein constitutes the Licensee's waiver of immunity under Utah Code § 34A-2-105 for the purposes of this Agreement. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement. No liability shall attach to the City by reason of entering into this Agreement except as expressly provided herein.
- vii. No Limitation. The indemnification obligations of this Agreement shall not be reduced by a limitation on the amount or type of damages, compensation, or benefits payable by or for the Licensee or Subcontractor under workers' compensation acts, disability benefits acts, or other employee benefit acts.
- viii. Interpretation. The parties intend that the indemnity and defense provisions in this section shall be interpreted so as to be enforceable to the fullest extent permitted by law, but nothing herein shall be interpreted to violate public policy.
- ix. Environmental Indemnity. Licensee shall indemnify the City, its agents, employees, and officers for any Indemnifiable Losses from a Proceeding arising out of Licensee's violation of federal, state, or local environmental laws or regulations, and shall include but not be limited to all cleanup and remedial costs, diminution in value of property, and any fines or fees imposed as a result.

G. Insurance.

At its own cost and expense, Licensee shall maintain the following mandatory insurance coverage to protect against claims for injuries to persons or property damage that may arise from or relate to the performance of this Agreement by the Licensee, its agents, representatives, employees, or Subcontractors for the entire duration of this Agreement or for such longer period of time as set forth below. Prior to commencing any work, Licensee shall furnish a certificate of insurance as evidence of the requisite coverage. The certificate of insurance must include endorsements for

additional insured, waiver of subrogation, primary and non-contributory status, and completed operations.

- I. Commercial General Liability Insurance. Licensee shall maintain commercial general liability insurance on a primary and non-contributory basis in comparison to all other insurance, including the City's own policies of insurance, for all claims against PCMC. The policy must be written on an occurrence basis with limits not less than \$2,000,000 per occurrence and \$4,000,000 aggregate for personal injury and property damage. Upon request of the City, the Licensee must increase the policy limits to at least the amount of the limitation of judgments described in Utah Code § 63G-7-604, the Governmental Immunity Act of Utah (or successor provision), as calculated by the state risk manager every two years and stated in Utah Admin. Code R37-4-3 (or successor provision).
- II. Automobile Liability Coverage. Licensee shall maintain automobile liability insurance with a combined single limit of not less than \$2,000,000 per accident for bodily injury and property damage arising out of the ownership, maintenance, and use of owned, hired, and non-owned motor vehicles. This policy must not contain any exclusion or limitation with respect to loading or unloading of a covered vehicle.
- III. Workers' Compensation Insurance and Employer's Liability. Licensee shall maintain workers' compensation insurance with limits not less than the amount required by statute, and employer's liability insurance limits of at least \$1,000,000 each accident, \$1,000,000 for bodily injury by accident, and \$1,000,000 each employee for injury by disease. The workers' compensation policy must be endorsed with a waiver of subrogation in favor of "Park City Municipal Corporation" for all work performed by the Licensee, its employees, agents, and Subcontractors.
- IV. Umbrella/Excess Coverage. The insurance limits required by this section may be met by either providing a primary policy or in combination with umbrella / excess liability policy(ies). To the extent that umbrella/excess coverage is used to satisfy the limits of coverage required hereunder, the terms of such coverage must be following form to, or otherwise at least as broad as, the primary underlying coverage, including amending the "other insurance" provisions as required so as to provide additional insured coverage on a primary and non-contributory basis, and subject to vertical exhaustion before any other primary, umbrella/excess, or any other insurance obtained by the additional insureds will be triggered.
- V. Insured Parties. Each policy and all renewals or replacements, except those policies for Professional Liability, and Workers Compensation and Employer's Liability, must name the City (and its officers, agents, and employees) as additional insureds on a primary and non-contributory basis with respect to liability arising out of work, operations, and completed operations performed by or on behalf of the Licensee.
- VI. Waiver of Subrogation. Licensee waives all rights against the City and any other additional insureds for recovery of any loss or damages to the extent these damages are covered by any of the insurance policies required under this Agreement. Licensee shall cause each

policy to be endorsed with a waiver of subrogation in favor of the City for all work performed by Licensee, its employees, agents, and Subcontractors.

- VII. Quality of Insurance Companies. All required insurance policies must be issued by insurance companies qualified to do business in the state of Utah and listed on the United States Treasury Department's current Department of Treasury Fiscal Services List 570 or having a general policyholders rating of not less than "A-" in the most current available A.M. Best Co., Inc.'s, Best Insurance Report, or equivalent.
- VIII. Cancellation. Should any of Licensee's required insurance policies under this Agreement be cancelled before the termination or completion of this Agreement, Licensee must deliver notice to the City within 30 days of cancellation. The City may request and Licensee must provide within 10 days certified copies of any required policies during the term of this Agreement.
- IX. Additional Coverage. Notwithstanding anything to the contrary, if Licensee has procured any insurance coverage or limits (either primary or on an excess basis) that exceed the minimum acceptable coverage or limits set forth in this Agreement, the broadest coverage and highest limits actually afforded under the applicable policy(ies) of insurance are the coverage and limits required by this Agreement and such coverage and limits must be provided in full to the additional insureds and indemnified parties under this Agreement. The parties expressly intend that the provisions in this Agreement will be construed as broadly as permitted to be construed by applicable law to afford the maximum insurance coverage available under Licensee's insurance policies.
- X. No representation. In specifying minimum Licensee's insurance requirements, the City does not represent that such insurance is adequate to protect Licensee from loss, damage or liability arising from its work. Licensee is solely responsible to inform itself of types or amounts of insurance it may need beyond these requirements to protect itself.
- H. **Anti-Discrimination.** In the performance of this License, Licensee shall not discriminate on account of actual or perceived race; color; sex; pregnancy, childbirth, or pregnancy-related conditions; age, if the individual is 40 years of age or older; religion; national origin; disability; sexual orientation; gender identity; genetic information; or military status and incorporate the foregoing provisions in all subcontracts or assignments hereunder and take such actions as may be required to ensure full compliance with the provisions of this policy.
- I. **No City Liability.** Except where caused by City's negligence, City shall not be liable for any failure of water supply, natural gas supply, or electrical supply; or for any injury or damage to persons or property caused by gasoline, oil, steam, gas or electricity; or hurricane, tornado, flood, wind or similar storms of natural disturbances; or water, rain or snow which may leak or flow from the street, sewer, gas mains, or from any part of the Facility.
- J. **Snow and waste removal.** The City shall remove the Galleria Lot of snow and ice before Licensee controls the Facility. Once Licensee controls the Facility, Licensee shall be responsible for clearing snow, ice and debris from the Facility, tents, vehicles, and any other temporary

structures. All reasonable efforts will be made to keep the area clear of snow for the remainder of the Festival and use period as reflected in this Agreement. Licensee also accepts responsibility for the removal of any and all vehicles parked in areas other than the designated surface parking lot.

K. **Attendance control.** Licensee will be responsible for ensuring that the occupancy limit does not exceed the capacity set by the City Building inspectors for use areas. Licensee will be responsible for monitoring the entrances to the Facility and will ensure that access to all entrances is maintained during operating hours (no entrances or exits can be blocked).

L. **Amendments.** This Agreement cannot be altered except by written instrument, signed by both parties.

M. **Sales/Business License.** Licensee agrees to obtain any required permits, business licenses or liquor licenses that may be required for the event. Any concession sales at this location must receive written, advanced approval from the City Manager or their designee for the City.

N. **City Use.** Licensee acknowledges Galleria Parking Lot is leased exclusively to Licensee; however, Licensee will not disrupt surrounding business and residents during the License period beginning Thursday, January 23, 2025, through Monday, January 27, 2025. **Licensee acknowledges it has exclusive use of the Galleria Parking Lot.**

O. **Master Festival License.** Licensee is subject to Park City Municipal Code 4A Special Events, as well as the Master Festival License and annual supplemental plans and City Services Agreement 2013 Amended and Restated, dated 10/30/13, a copy of which is attached hereto as “**Exhibit A**” and incorporated herein by this reference. Licensee hereby agrees and accepts the terms contained therein.

P. **Notice.** Written notices under this Agreement shall be given by first class mail, addressed to:

If to City: Park City Municipal Corporation
Special Events Department
P.O. Box 1480
Park City, Utah 84060

If to Licensee: Intersport, LLC
303 E. Wacker Drive, Suite 2200
Chicago, Illinois 60601

Q. **Applicable Laws.** Licensee shall obey all laws, ordinances, and regulations. Licensee acknowledges that smoking is prohibited in the Facility.

R. **Revocation.** If City determines that Licensee has breached the terms of this Agreement, or any other Federal, State, or local law, City may immediately revoke the License granted herein. If monies are not paid on or before the due date specified in the Agreement and a copy of the certificate of insurance is not received prior to the event, the Agreement is subject to immediate

cancellation by the City Manager or designee without further notice and the deposits heretofore collected will be retained as liquidated damages. If the breach occurs while Licensee is using the Facility, Licensee shall immediately leave the Facility and fees shall be prorated for any time paid for that was not used.

IN WITNESS WHEREOF, the parties have executed this instrument or caused it to be executed by their representative duly authorized, the 15th day of January, 2024.

PARK CITY MUNICIPAL CORPORATION,
a Utah municipal corporation
Post Office Box 1480
Park City, UT 84060

DocuSigned by:
Matt Dias
Matt Dias, City Manager

Attest:

DocuSigned by:
[Signature]
City Recorder's Office
78A88234564F44D.c.c

Approved as to Form:

Signed by:
Mark Harrington
City Attorney's Office
8F478077840C3410

INTERSPORT, LLC, an Illinois limited liability
company
303 E Wacker Drive, Suite 2200
Chicago, Illinois 60601

Signed by:
By: Andrew Loferski
010F2FC731464DF...

Name Printed:

Andrew Loferski

Title:

Account Supervisor

EXHIBIT “A”

Sundance Film Festival Master Festival License and City Services Agreement

<https://www.parkcity.org/home/showpublisheddocument/69410/637412157810770000>

CONTINUATION DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS (Use only if more space is required)

Park City Municipal Corporation and its officers, agents, and employees are included as additional insureds on a Primary and Non-contributory basis if required by written contract with respect to General Liability, Automobile Liability and Umbrella Liability per the terms and conditions of the policy. A waiver of subrogation applies in favor of Park City Municipal Corporation and its officers, agents, and employees if required by written contract with respect to General Liability, Automobile Liability, Umbrella Liability, and Workers' Compensation per the terms and conditions of the policy where permitted by state law. A 30-day notice of cancellation is included if required by written contract with respect to General Liability, Umbrella Liability, Automobile Liability, and Workers' Compensation per the terms and conditions of the policy.