

REAL PROPERTY LEASE AGREEMENT

THIS LEASE AGREEMENT is made and entered into by and between the **CITY OF TULSA, OKLAHOMA**, a municipal corporation (hereinafter referred to as the “City”) and **TULSA QUARTER MIDGET ASSOCIATION, INC.** (hereinafter referred to as “Lessee”).

WITNESSETH:

WHEREAS, City has certain properties which at the present time are not required in connection with the City operations and/or services; and

WHEREAS, Lessee is desirous of using certain of these properties in connection with operating a quarter midget automobile race track; and

WHEREAS, the parties are desirous of contracting accordingly.

NOW THEREFORE, for and in consideration of the terms, covenants and conditions hereinafter set forth, the parties hereto agree as follows:

1. **PREMISES:** City hereby leases to Lessee and Lessee hereby leases from the City the described property (the “Leased Premises”) as set forth in attachment A hereto, to wit:

2. **TERM:** The term of this Lease Agreement shall be for a period of 3 years, commencing on the _____, and ending at midnight on the _____, or at such earlier date as this Lease Agreement may terminate as hereinafter provided. Lease term shall include two (2) non-competitive three-year optional renewal periods.

3. **RENTAL:** City shall charge Lessee, and Lessee agrees to pay City, rent in the amount of \$250 per month payable the first day of each month including any period of “Holding Over” after expiration or termination of Lease Agreement.

4. **USE OF LEASED PREMISES:** Lessee has inspected the premises and is familiar therewith and agrees that the same are acceptable for its intended occupancy and/or use. It is acknowledged that Lessee intends to place and/or maintain one or more temporary structures or buildings on the premises for use in connection with the operation of a quarter midget automobile race track.

The City shall at all times during the term of this Lease Agreement reserve the right to cause City personnel, contractors or equipment to enter upon the property for any reason and for any public purpose.

Lessee shall, under no circumstances nor in any instance, permit racing of any motorized or otherwise powered vehicles after 10:30 p.m., said restriction being imposed by City for the purpose of nuisance control and/or avoidance of any nuisance allegation by neighboring residents.

5. **MAINTENANCE:** Lessee shall assume maintenance duties on the leased property, improved and unimproved and shall make no demand upon City for the furnishing of or payment for labor, materials or equipment necessary to maintain the property during the term of this Lease Agreement.

Lessee shall, at its own expense and in a manner acceptable to City, keep and maintain the leased premises, equipment, fixtures and grounds surrounding the field, track and/or stands clean and sanitary and in such an attractive condition as may be satisfactory to the City and/or Tulsa Park and Recreation Board.

6. **UTILITY SERVICE:** Lessee agrees to assume all responsibility of and pay the cost for and associated with any and all utility services to the premises, including but not limited to the cost of water, electricity, gas, telephone and sewer services. Lessee shall not at any time permit any lien or claim to be filed against the Leased Premises, or any part thereof, on account of any expenses or charges for the same.

7. **RESTRICTED USE:** Lessee shall not sublease subject property, or use the subject property except as noted in Paragraph 4 and shall not erect or permit or cause to be erected thereon any permanent fixture or improvement (including signs) unless Lessee shall have first submitted a written proposal for such permanent fixture to the Tulsa Parks and Recreation Department or other appropriate department, board or authority and obtained from said department, board or authority written authorization to erect said fixture. Any said fixture or improvement shall be in compliance with all applicable Codes and must comply with the provisions of the Americans with Disabilities Act, and Lessee hereby agrees to design, construct and operate said facility in full compliance with said Act.

8. **PROHIBITED ACTS:** Lessee shall not commit any act, or permit any act to be committed, on the property which violates any state or federal law or any City ordinance. At no time during the term of this lease shall Lessee perform or permit the cutting down or injury to any trees on the property, or the removal, excavation or relocation of any surface or subsurface of the property except with the permission in writing from the appropriate department, board or authority. In its use of the property, Lessee covenants not to discriminate in its hiring, firing, membership, participation, charging of fees, on the basis of race, creed, color or national origin, gender, age, status of handicap.

9. **RESTORATION:** In the event any fixture or improvement, as in Paragraph 7 (above), or any cutting or relocation, as in Paragraph 8 (above), is permitted by the department, board or authority, then upon termination of this Lease, if requested in writing, Lessee agrees to remove said improvement, repair any damage or replace and restore any surface, so as to return the property to its pre-lease condition; provided that the City shall reserve the right to assume ownership, possession and control of said improvement upon such termination, without compensation to Lessee.
10. **EXCLUSIVITY:** This Lease is exclusive to the Lessee, and Lessee is hereby granted the right to erect fences, gates, and/or signs, whose design and installation shall have been approved by the City or appropriate authority, to keep third parties off the Leased Premises. Lessee shall have the right to prevent uninvited entry onto the Leased Premises, to request trespassers to leave the premises, and to participate in the prosecution of any trespass under Title 27 Okla. Stat. §§1800, 2106, etc. Nothing in this section shall be construed as permitting the discrimination, by Lessee, against any person because of race, color, creed, nationality, national origin, gender, age or handicap.
11. **ADMINISTRATION OF QUARTER MIDGET AUTOMOBILE TRACK:**

Lessee shall be solely responsible for the administration, supervision and control of the quarter midget automobile track. In addition, Lessee shall have sole responsibility for the supervision and control of all participants and spectators in races held on the Leases Premises including but not limited to obtaining all appropriate releases from such participants. Lessee shall provide City a copy of such releases upon the City's request.

During the term of this Agreement, Lessee shall remain a member of a quarter midget sanctioning agency such as United States Auto Club and all events held on the Leased Premises shall be events sanctioned by such agency. Lessee shall provide the City prior to each event to be held on the Leased Premises, evidence that Lessee is still an active member in good standing with the sanctioning agency and that the upcoming event is a sanctioned event.

Lessee shall follow all rules including but not limited to all tech bulletins issued by the sanctioning agency.

Lessee shall provide the City with a yearly race schedule by February 1st of each year, so park activities will not overlap and parking will be accessible. Any changes in schedule will have to be approved by the Tulsa Parks and Recreation Department prior to the commencement of the event.

Lessee shall be solely responsible for any individuals it allows to work at the quarter midget automobile track, whether as employees or volunteers or

otherwise. Lessee shall conduct a nationwide background check at Lessee's expense before any employee, volunteer, instructor, agent or subcontract begins working or volunteering at the track.

Lessee shall report any incidents that occur on the Premises within twenty-four hours of such occurrence.

12. **INSURANCE**: Lessee shall obtain, and shall maintain during the term of this Lease Agreement, a policy of general liability insurance, issued by an insurer authorized to do business in the State of Oklahoma, and naming Lessee as insured and the City of Tulsa as additional insured. Said policy shall be issued reflecting coverage limits of not less than \$175,000.00 for each person injured; one million dollars (\$1,000,000) of multiple persons injured in any one accident; and \$300,000.00 for property damage. Notwithstanding the foregoing, if the quarter midget sanctioning body that licenses Lessee requires more stringent policy amounts, those amounts shall be required by the City as well. Lessee shall provide proof of such coverage by providing a Certificate of Insurance prior to execution of this Lease Agreement and by submitting an updated Certificate of Insurance prior to each event where Lessee permits any recreational or competitive activity of any kind to be conducted on the Leased Premises. Lessee shall not cause any required insurance policy to be cancelled or permit it to lapse. It is the responsibility of Lessee to notify City of any change in coverage or insurer by providing City with an updated Certificate of Insurance. Failure of Lessee to comply with the insurance requirements herein may be deemed a breach of this Lease Agreement. The Certificate of Insurance must be completed with the following information:

- a. Full legal name and address of insured;
- b. Insurer's name and address (must be authorized to transact business in Oklahoma);
- c. Policy number;
- d. Liability coverage and amounts;
- e. Commencement and expiration dates; and
- f. Signature of authorized agent of insurer.

12. **INDEMNITY**: Notwithstanding the provisions of Paragraph 11 (above), Lessee agrees to indemnify and hold City harmless from and against all claims, suits, actions, appeals or damage brought by any party or member of the public, arising from any cause, including but not limited to: permitted and non-permitted use of

the property, whether in programs and activities organized and supervised by Lessee or not, claims by third parties, bystanders, invitees, concessionaires, licensees, City employees, trespassers, contractors, employees and agents of Lessee. City shall be liable for torts committed by City and City's employees acting within the scope of their employment, subject to the terms, conditions and exceptions contained in the Governmental Tort Claims Act, Title 51, Oklahoma Statutes, Sections 151 et seq.

13. **TERMINATION, EVICTION:** If Lessee shall fail or default in the observance of any of the terms, conditions or covenants of this Lease Agreement, City shall have the option of immediately terminating the Lease, or notifying the Lessee, in writing, of said failure and demanding correction thereof, which correction shall be accomplished by Lessee within fourteen (14) calendar days of said notification. If said correction is so made, City may waive its right to terminate the Lease. City reserves the right to terminate the Lease, and if City does so terminate then Lessee shall forthwith vacate the property, or City may use all means necessary to evict Lessee.

That in the event the City should for any reasons find it necessary or desirable to use the Leased Premises for a public purpose City may determine to be in better interest to the citizens of Tulsa, City may terminate this lease by giving Lessee thirty (30) days prior written notice.

That upon termination of this agreement for any reason, Lessee shall surrender to the City quiet and peaceable possession of all of said premises together with any and all permanent improvements and fixed equipment thereon and Lessee shall at all times preserve said improvements and equipment from any lien, claim or mortgage of any kind with respect thereto (except non-permanent improvements and equipment owned by Lessee may be encumbered when on the premises if written permission for such encumbrance is granted by City) and the City's rights hereunder shall be superior to the rights of any and all persons with respect to such permanent improvements and equipment affixed to the premises.

Lessee shall execute such bills of sale, assignments and transfers of the title to City of any such permanent improvements and/or equipment. Lessee shall at all times preserve all of the premises and any permanent improvements thereon in their original condition subject only to such depreciation and deterioration as may be caused by the ordinary wear and tear thereon by normal usage thereof and exposure to the elements.

14. **MANAGING DEPARTMENT:** The department or entity responsible for the management of this Lease and of the property shall be the Tulsa Parks and Recreation Department.

15. **INDEPENDENT CONTRACTOR:** All services performed by Lessee shall be rendered exclusively as an independent contractor to, and not as agent or employee of City.
16. **NOTICES.** All notices, requests, demands and other communications given under this Lease Agreement will be in writing, and will be deemed to have been given upon receipt, if delivered in person; upon receipt, if mailed by certified mail; and within three business days of mailing if mailed by first class U. S. mail, postage pre paid, and addressed to Lessee or to the City at the following addresses, unless either Lessee or the City changes its address by giving written notice of the change to the other. The addresses for notices are:
- A. Notice to Lessee:
- [complete]
- B. Notice to the City:
City of Tulsa
175 E. 2nd St.
Tulsa, Oklahoma 74103
Attn: City Clerk
- With a copy to:
Tulsa Parks and Recreation Department
175 E 2nd St.
Tulsa, Oklahoma 74103
Attn: Director
17. **GOVERNING LAW AND VENUE:** This Lease Agreement is executed in and shall be governed by and construed in accordance with the laws of the State of Oklahoma without regard to its choice of law principles, which shall be the forum for any lawsuits arising under this Lease Agreement or incident thereto. The parties stipulate that venue is proper in a court of competent jurisdiction in Tulsa County, Oklahoma and each party waives any objection to such venue.
18. **ENTIRE AGREEMENT:** This Lease Agreement and any documents incorporated herein constitute the entire agreement of the parties and supersede any and all prior agreements, oral or otherwise, relating to the subject matter of this Lease Agreement. This Lease Agreement may only be modified or amended in writing and signed by both parties. Notwithstanding anything to the contrary herein, the City does not agree to the terms of any future agreements, revisions or modifications that may be required under this Lease Agreement unless such terms, revisions or modifications have been reduced to writing and signed by both parties.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the date below written.

THE CITY OF TULSA

Mayor

Date

City Clerk

APPROVED:

City Attorney

**TULSA QUARTER MIDGET
ASSOCIATION, INC.**

By

Title

Date

ATTEST:

Corporate Secretary