TRAVIS MAJOR FIELD RENTAL AGREEMENT
BETWEEN THE CITY OF BRYAN, TEXAS AND VENTURA SPORTS GROUP, LLC

This Lease and User Agreement ("Agreement") is made by and between the **City of Bryan**, a Texas home-rule municipal corporation ("City") and **Ventura Sports Group, LLC**, a Texas limited liability company ("Company"), collectively referred to as "Parties".

RECITALS

WHEREAS, the City owns Travis Major Field, a baseball stadium located in the City of Bryan, Texas; and

WHEREAS, the City has owned Travis Major Field since its construction in 1946 and desires that the baseball stadium be put to the best use in order to benefit the citizens of Bryan, Texas; and

WHEREAS, Company is the founder of the Mid-America League, a regional summer baseball league with franchises located in Texas, Arkansas, Missouri, and Kansas; and

WHEREAS, City and Company desire to establish an expansion franchise in the City of Bryan that will play a Mid-America League schedule at Travis Major Field during the term of this Agreement; and

WHEREAS, City determines that it is in the best interest of its citizens and patrons of Travis Major Field to secure an expansion franchise and enter into this Agreement to set forth the terms and conditions for use of Travis Major Field; and

NOW, THEREFORE, for the reasons stated in the Recitals and in consideration of the mutual covenants herein, City and Company agree as follows:

ARTICLE I.

LEASED PREMISES

1.1 City leases to Company the Travis Major Field property located at 2200 Bomber Drive, Bryan, Texas, 77801, together with all improvements and fixtures, as more particularly described in the attached **Exhibit "A"** ("Leased Premises") for the term and use as set forth herein.

1.2 Company leases and accepts the Leased Premises as they now exist and agrees to surrender the Leased Premises at the end of the term of this Agreement clean and free of trash and in the same condition and free of all claims, allowing for reasonable wear and tear.

1.3 Company acknowledges and agrees that neither City nor any affiliate or related party of City makes or has made any warranty or representation, express or implied, and City hereby disclaims and Company waives any warranty or representation, express or implied, concerning the physical condition of the Leased Premises or the suitability

of Leased Premises or fitness for a particular purpose as to any uses or activities that Company may make thereof or conduct thereon at any time during the Term. Company's acceptance of Leased Premises will be strictly on an "AS IS, WHERE IS" basis.

ARTICLE II.

TERM AND TERMINATION

2.1 Term. The term of this Agreement shall be for three (3) years ("Term"). The Term begins on January 1, 2026 ("Commencement Date") and ends on December 31, 2028, unless terminated sooner as provided in this Agreement.

2.2 Renewal Periods.

(a) Company shall have the option to extend the Agreement for two (2) consecutive additional periods of one (1) year each (each option is referred to as "Renewal Option" and each such period is referred to as "Renewal Option Period"). Each Renewal Option Period shall commence at 12:00 a.m. on the day immediately following the expiration of the Term or previous Renewal Option Period, as applicable. In no event shall a Renewal Option Period extend the Agreement beyond five (5) years from Commencement Date.

(b) Company's ability to exercise each Renewal Option shall be subject to Company delivering to City a written request to discuss the terms and conditions of the Agreement for the upcoming Renewal Option Period on or before ninety (90) days prior to the expiration of the Term or sixty (60) days prior to the expiration of previous Renewal Option Period. After the exercise of a Renewal Option, City and Company shall enter into good faith negotiations to determine terms for the Renewal Option Period. In the event that Company does not timely provide notice of its request to exercise a Renewal Option, or in the event that Company provides such notice, but the Parties fail to agree upon the terms of a renewal on or before the then current Term or Renewal Option Period expiration date, as applicable, then City shall be free to negotiate with, make offers to, entertain offers from, have discussions and communications with and enter into any agreement with any individual, entity, or organization regarding Leased Premises. In the event that Company is in default under the provisions of the Agreement, then Company shall not be entitled to exercise its Renewal Option.

2.3 Holdover. If Company holds over and continues in possession of Leased Premises after the Term expires, other than as provided in Section 2.2, Company will be considered to be occupying the Leased Premises as a tenant at sufferance and will be subject to, at City's option, immediate eviction and removal. Company will be subject to all the conditions, provisions, and obligations of this Agreement insofar as the conditions, provisions, and obligations are applicable to a month-to-month tenancy.

ARTICLE III.

RENT AND PAYMENT OBLIGATIONS

3.1 Base Rent. In consideration of the use and occupancy of Leased Premises by Company, beginning on Commencement Date and during each year of the Term thereafter, Company shall pay City **$32,000** per year ("Base Rent"). The Base Rent is based on a rate of $1,000 per game for a thirty-two (32) game Mid-America League schedule held at Leased Premises.

3.2 Payment of Base Rent. Base Rent shall be due and payable annually in advance on May 20 without notice, demand, set off, or counterclaim.

3.3 Participation Rent. In consideration of the use and occupancy of Leased Premises by Company, beginning on Commencement Date and continuing thereafter for the remainder of the Term, Company shall pay to City the amounts indicated in this Section 3.3 (collectively, "Participation Rent") in addition to the Base Rent.

(a) Advertising and Sponsorship. Company shall have the exclusive right to all sponsorship revenues of every kind throughout the Term, and to sell, contract for, and retain revenues throughout the Term from advertising at Leased Premises. All advertising and sponsorship net profits shall be shared on a twenty percent (20%) to the City, eighty percent (80%) to the Company basis. Net profits shall equal gross advertising and sponsorship revenue less sales commission and fulfillment costs. Fulfillment costs means all direct expenses to produce the advertising and sponsorship. The Company shall retain the first $250,000 in advertising and sponsorship revenue prior to net revenue share. Advertising and sponsorship shall not include the name of another political subdivision or governmental authority.

(b) Food and Beverage. Company shall have the exclusive right to all food and beverage concession revenues of every kind throughout the Term that are sold at events at Leased Premises. All food and beverage concession net profits shall be shared on a ten percent (10%) to the City, ninety percent (90%) to the Company basis.

(c) Broadcast Revenues. All net profits from the broadcast of Mid-America League games at Leased Premises shall be shared on a fifty percent (50%) to the City, fifty percent (50%) to the Company basis. Broadcast Revenues include without limitation revenues from radio, television, cable, internet, and other media broadcasts, whether currently existing or developed during the Term.

3.4 Payment of Participation Rent. Participation Rent shall be due and payable annually without notice, demand, set off, or counter claim, beginning 30 days following the end of each year of the Term and continuing to be paid on each yearly anniversary thereafter.

3.5 Books and Records. Company shall keep, or cause to be kept, full, complete and proper books, records, and accounts of advertising and sponsorship expenses and revenues, food and beverage expenses and revenues, and broadcast expenses and revenues ("Records"). The Records shall be available to City and its agents and employees at Leased Premises or another location agreed upon in writing at reasonable times to examine and inspect for the purpose of verifying the accuracy of any statement of said expenses and revenues.

3.6 Utilities. City shall pay the cost for all utilities consumed or provided to Leased Premises, including water, gas, heat, light, power, sewer, and trash collection. The Parties shall use reasonable efforts to avoid waste in the use of utilities.

3.7 No City Obligations. Except for costs that City has specifically agreed to pay pursuant to the express terms of this Agreement, City shall not be required to make any expenditure, incur any obligation, or incur any liability of any kind whatsoever in connection with this Agreement.

ARTICLE IV.

USE OF LEASED PROPERTY (USER AGREEMENT)

4.1 Mid-America League Baseball (MALB) Franchise. Leased Premises shall serve as home ballpark for a new MALB franchise ("Team").

(a) Independent League Exclusivity. Team shall have exclusive use of Leased Premises for the purpose of playing Independent League Baseball during the Term. Independent League Baseball means an organized professional independent baseball league or a collegiate summer baseball league. Independent League Baseball does not mean amateur baseball games and the exclusivity does not exclude amateur games and events, little league baseball and softball, high school baseball, collegiate baseball affiliated with a college or university, and similar amateur games and events. City shall have the express right to use the Leased Premises for any event of any type whatsoever, including events that are amateur, professional, for rent, or without rent, that do not conflict with the exclusivity in this Section 4.1(a) and the MALB Home Season.

(b) Travis Major Field Naming Rights. City grants to Company, effective as of the Commencement Date and until the termination of this Agreement, the right to name the Travis Major Field located on Leased Premises. Naming rights are considered advertising and sponsorship for purposes of Participation Rent under Section 3.3(a). The naming rights shall be subject to prior written approval of City. Approval of City shall not be unreasonably withheld unless the proposed name (i) promotes a use of Leased Premises other than a Permitted Use, (ii) would reasonably cause embarrassment or disparagement to City, including but not limited to, names containing slang, barbarisms, racial epithets, obscenities, profanity, names relating to tobacco, alcoholic beverages, illicit substances and drugs, sexually-oriented business or enterprise, or names referring to another political subdivision or governmental authority.

4.2 Permitted Uses. Commencing on Commencement Date and continuing throughout the remainder of Term, Company shall, subject to compliance with all terms and conditions herein and the Terms of Facility Use in attached **Exhibit "B"**, use the Leased Premises for the purposes listed in this Section 4.2 ("Permitted Uses").

(a) MALB Home Season. Team shall play a Mid-America League Baseball home schedule from May 20 to August 15 during each year of the Term ("MALB Home Season"). The MALB Home Season means a home schedule consisting of thirty-two (32) games and four (4) practice dates. Company shall provide to City a schedule indicating the dates and times when the Leased Premises will be used for each game and each practice for the upcoming season. The MALB Home Season schedule shall be provided to City no later than November 15 preceding each MALB Home Season.

(b) Concessions. Company shall have the exclusive right to sell food and beverage concessions on Leased Premises, including the right and duty to select concessionaires and to negotiate and enter into concession agreements for the Leased Premises for a term no longer than the Term and subject to the requirements of Section 4.4.

(c) Advertising. Company shall have the right to sell, and at its sole expense, create, install, and maintain signs and other advertising at Leased Premises that (i) do not materially or adversely affect structure or design integrity where installed, (ii) comply with all applicable laws and regulations, and (iii) are not expressly prohibited by applicable laws, ordinances, rules, or regulations. City shall have the right to approve the size and location of all advertising and signs located on the Travis Major Field and elsewhere on Leased Premises, which approval shall not be unreasonably withheld.

(d) Limitations and City events. Company's permitted uses of the Leased Premises shall be limited to those times set forth in this Section 4.2 and as required by Section 4.4. Aside from those times, the City, as the owner of Leased Premises, shall have the exclusive right to use the Leased Premises during times when the Company has no user rights thereto.

4.3 Prohibited Uses. Company shall use Leased Premises only for the Permitted Uses or as may be otherwise mutually agreed in writing with City. Company shall not (collectively, "Prohibited Uses"):

(a) Create, cause, maintain, or permit any public or private nuisance in, on, or about the Leased Premises;

(b) Use or allow the Leased Premises to be used for the sale or display of any pornographic material or material that is obscene under standards set forth in applicable laws;

(c) Use or allow Leased Premises to be used for the sale of paraphernalia or other apparatus that is used primarily in connection with illicit substances;

(d) Use or allow Leased Premises to be used as a casino or other establishment in which gambling is permitted or games of chance are operated in violation of applicable laws; and/or

(e) Use or allow Leased Premises to be used for any other purpose that violates the law or ordinances of the City of Bryan.

4.4 Concessionaire Agreement. For the Permitted Use under Section 4.2(b), Company will obtain a concession agreement that provides the following:

(a) Concessionaire will service all events at the stadium where anticipated attendance is more than 300 people and on the same terms as concessions provided at MALB Home Season events. City shall provide seven (7) days prior written notice of such events;

(b) Concessionaire shall clean and maintain all concession areas;

(c) Concessionaire shall name City and Company as additional insureds, as appropriate, in all insurance policies required to be held by Concessionaire; and

(d) Concessionaire and Company shall indemnify the City in connection with the operation of the concession areas and in connection with concession activities.

4.5 Security. Company shall, at its sole expense, provide security guards during MALB Home Season games as may be reasonably necessary in order to provide security at Leased Premises.

4.6 Improvements and Maintenance.

(a) Company shall keep and maintain, or cause to be kept and maintained, all buildings and improvements erected on the Leased Premises in the same state of appearance and repair as they now exist (except for reasonable wear and tear) at Company's own expense. Company shall clean, or cause to be cleaned, Leased Premises during MALB Home Season at Company's sole expense. Company is not responsible for cleaning areas within the Leased Premises not associated with concessions after events not sponsored by Company.

(b) No building or other improvements may be constructed on Leased Premises without prior approval and written agreement of City. The following do not require prior written approval of City:

(i) Maintenance and facility cleaning;

(ii) Minor repairs and alterations necessary to maintain existing structures and improvements in a useful state of repair and operation; and

(iii) Minor changes and alterations required by an authorized public official with authority or jurisdiction over the buildings or improvements, to comply with legal requirements.

(c) Any improvements, additions, alterations, and fixtures constructed, placed, or maintained on any part of the Leased Premises during the Term are considered part of the real property of Leased Premises and must remain on the Leased Premises and become City's property when the Agreement terminates.

4.7 Inspection of Premises. City may enter upon the Leased Premises at any reasonable time during the Term for the purpose of determining whether or not Company is complying with the terms and conditions hereof or for any other purpose incidental to the rights of City.

4.8 Quiet Enjoyment. City agrees that Company, upon observing and keeping each of the covenants of this Agreement on the part of Company to be observed and kept, will lawfully and quietly hold, occupy and enjoy the Leased Premises, equipment, furniture, and fixtures during the Term of this Agreement.

ARTICLE V.

INSURANCE AND INDEMNIFICATION

5.1 Insurance. Company agrees to have and maintain the policies set forth in the insurance requirements attached as **Exhibit "C"**. All policies, endorsements, certificates, and/or binders shall be subject to approval by the City as to form and content. These requirements are subject to amendment or waiver only if so approved in writing by the City. A lapse in any required coverage shall be a breach of this Agreement.

5.2 Indemnification. Company shall indemnify, defend, and save harmless the City and all its officers, agents, and employees from all suits, claims, demands, expenses (including reasonable attorneys' fees and litigation expenses), commenced or threatened actions, losses, alleged losses, or liabilities of any nature made against or incurred by City either directly or indirectly, either in law or equity, paid, suffered, or incurred as a result of negligence or willful misconduct of Company or Company employees, agents, contractors, or invitees, or any user of Leased Premises.

5.3 Release. Company releases, relinquishes, and discharges the City, its officers, agents, and employees from all claims, demands, and causes of action of every kind and character, including the cost of defense thereof, for any injury to, sickness or death of the Company employees and any loss of or damage to any property of the Company or its employees that is caused by or alleged to be caused by, arises out of, or is in connection with the Company negligence. Both the City and the Company expressly intend that this release shall apply regardless of whether said claims, demands, and causes of action are covered, in whole or in part, by insurance.

ARTICLE VI.

DEFAULT AND REMEDIES

6.1 A default shall exist if either party fails to perform or observe any material covenant contained in this Agreement. The non-defaulting party shall immediately notify in writing the defaulting party upon becoming aware of any condition or event constituting a default. Such notice shall specify the nature and the period of existence thereof and what action, if any, the non-defaulting party requires or proposes to require with respect to curing the default.

6.2 If default shall occur and continue after thirty (30) days' notice of the same, the non-defaulting party may, at its option, pursue any remedies it may be entitled to, at law or in equity, in accordance with the law, without the necessity of future notice to or demand upon the defaulting party.

ARTICLE VII.

GENERAL PROVISIONS

7.1 Governing Law and Venue. This Agreement has been made under and shall be governed by and construed and enforced according to the laws of the State of Texas, without regard to the principles of conflicts of law. This Agreement is performable in Brazos County, Texas, and venue for any suit arising this Agreement shall be in Brazos County, Texas.

7.2 Waiver. The failure of a party to enforce the strict performance of any of the covenants, agreements, terms, provisions, or conditions of this Agreement shall not be construed as a waiver or relinquishment of any subsequent default or breach of any of the covenants, agreements, terms, provisions, or conditions of this Agreement, which shall continue and remain in full force and effect. The payment of sums due and payable hereunder, with knowledge of the default or breach of any covenant, agreement, term, provision, or condition of this Agreement shall not be deemed a waiver of such default or breach.

7.3 Severability. Every provision of this Agreement is intended to be severable. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity will not affect the validity of the remainder of this Agreement.

7.4 Payment and Notices.

(a) Notices. All notices provided for herein must be in writing. Any notice permitted or required to be given will be effective if hand delivered or mailed certified, Federal Express, UPS or Courier, return receipt requested to the following addresses:

Company: Ventura Sports Group, LLC
Attn: Mark Schuster

1273 Pearwood Court
Mount Pleasant, SC 29466

City: City Manager
City of Bryan
P.O. Box 1000
Bryan, Texas 77805

With copies of all notices to City relating to defaults, remedies, or indemnification sent to:

City Attorney
City of Bryan
P.O. Box 1000
Bryan, Texas 77805

(b) Payment to City: All payments to City shall be given to City at the following address with sufficient information to identify the source of such payment:

City of Bryan
Fiscal Services Department
Accounts Payable
P.O. Box 1000
Bryan, Texas 77805

7.5 Assignment, Sublease, Amendment. Neither party may assign this Agreement, collaterally, or otherwise, or any of its rights under it without the prior, written consent of the other party. Company may not enter into a sublease without the prior, written consent of City. Such consent shall not unreasonably be withheld. In the event of any assignment or sublease that is consented to by City, Company shall remain primarily liable for the payment and performance of all of the obligations of the Agreement. The Parties may modify the Agreement only by a separate writing that expressly amends the Agreement.

7.6 Successors and Assigns. This Agreement binds and insures to the benefit of the Parties to the Agreement and their respective legal representatives, successors, and assigns.

7.7 No Third-Party Beneficiary. This Agreement shall not create any claim or right of action in or on behalf of any third-party or entity or individual whatsoever. Enforcement of such terms and conditions of this Agreement, and all claims or rights of action relating to such enforcement, shall be strictly reserved to the City and Company, or to the successors or assigns of City and Company.

7.8 Relationship of the Parties. The relationship of City and Company under this Agreement is that of independent parties, each acting in its own best interests, and notwithstanding anything in this Agreement to the contrary, neither the obligation to pay City a Participation Rent nor any other aspect of this Agreement shall create or evidence, nor is intended to create or evidence, a partnership, joint venture, or other business relationship or enterprise between City and Company. City shall have no direct supervision of or obligation to the employees or Company and any communication of employee matters shall be through representatives of City and Company as the Parties may delegate.

7.9 Headings. Titles, headings, and captions in this Agreement are included for convenience and reference only and will not be deemed to constitute a part of or affect the construction of this Agreement.

CITY OF BRYAN

APPROVE:

____
Bobby Gutierrez, Mayor

VENTURA SPORTS GROUP, LLC:

____
Mark Schuster, CEO

APPROVED FOR PROCESSING:

____
Brad Stafford, Director of Parks and Recreation

____
Hugh R. Walker, Deputy City Manager

ATTEST:

____
Melissa Brunner, City Secretary

Date: ___________________________

APPROVED AS TO FORM:

____
Thomas A. Leeper, City Attorney

Exhibit "A"
Leased Premises

Exhibit "B"
Terms of Facility Use

1. Lighting clocks and components are not to be tampered with. User will inform City of the need to use lights and City will be responsible for setting the timers for the lights.

2. No tobacco products are allowed on the field, in the dugouts or on the Facility property.

3. No metal cleats or spikes, food, pets, vehicles, golf carts, bicycles, or field markings of any sort allowed on the turf.

4. Vehicles are not to be driven or parked on non-designated areas without prior approval and proper identification.

5. The Facility curfew is 11:00 p.m. to 5:00 a.m. Use of the Facility outside of these hours requires written pre-approval by City.

6. No glass bottles allowed in Facility.

7. User may not deny access to Bryan Parks and Recreation Department personnel at any part of the Facility.

8. No overnight parking allowed in Facility lot.

<u>Exhibit "C"</u>
<u>Insurance Requirements</u>

Lessee shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the Lessee's operation and use of the leased premises. The cost of such insurance shall be borne by the Lessee.

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability** (CGL): Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, contractual liability, property damage, bodily injury and personal & advertising injury with limits no less than **$1,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit. If lessee will be supplying alcoholic beverages, the general liability insurance shall include host liquor liability coverage. If lessee is using a caterer or other vendor to supply alcohol, that vendor must have liquor liability coverage. If lessee intends to sell alcohol either the lessee or vendor must have a valid liquor sales license and liquor liability insurance covering the sale of alcohol.

2. **Automobile Liability**: ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than **$1,000,000** per accident for bodily injury and property damage.

3. **Workers' Compensation** insurance as required by the State of Texas, with Statutory Limits, and Employer's Liability Insurance with limits of no less than **$1,000,000** per accident for bodily injury or disease. (This applies to lessees with employees).

4. **Property insurance** against all risks of loss to any tenant improvements or betterments, at full replacement cost with no coinsurance penalty provision. Lessee may, at its option, purchase insurance to cover its personal property contained within the leased area. In no event, shall the City be liable for any damage to our loss of personal property owned by Lessee.

If the Lessee maintains broader coverage and/or higher limits than the minimums shown above, the Entity requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Lessee. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Entity.

Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

Additional Insured Status

The Entity, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out the lease of the subject property including damage caused in whole or in part by Lessee or by those working on your behalf. General liability coverage can be provided in the form of an endorsement to the Lessee's insurance, at least as broad as ISO Form CG 20 11 12 19 or if not available, CG 20 43 12 19.

Primary Coverage

For any claims related to this contract, the Lessee's insurance coverage shall be primary and non-contributory and at least as broad as ISO CG 20 01 12 19 as respects the Entity, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the Entity, its officers, officials, employees, or volunteers shall be excess of the Lessee's insurance and shall not contribute with it. This requirement shall also apply to any Excess or Umbrella liability policies.

Legal Liability Coverage

The property insurance is to be endorsed to include Legal Liability Coverage (ISO Form CP 00 40 04 02 or equivalent) with a limit equal to the replacement cost of the leased property.

Notice of Cancellation

Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the Entity.

Waiver of Subrogation

Lessee hereby grants to Entity a waiver of any right to subrogation which any insurer of said Lessee may acquire against the Entity by virtue of the payment of any loss under such insurance. Lessee agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the Entity has received a waiver of subrogation endorsement from the insurer.

Self-Insured Retentions

Self-insured retentions must be declared to and approved by the Entity. The Entity may require the Lessee to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or Entity.

Acceptability of Insurers

Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the Entity.

Verification of Coverage

Lessee shall furnish the Entity with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All required documents are to be received and approved by the Entity before lease commences. However, failure to obtain the documents prior to the lease beginning shall not waive the Lessee's obligation to provide them. The Entity reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Special Risks or Circumstances

Entity reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.