

LICENSE AGREEMENT

This License Agreement ("Agreement") is made this 15 day of October, 2019, by and between the **WHEATON PARK DISTRICT**, an Illinois Park district and unit of local government ("Park District"), and Bolt Marketing Group, LLC, d/b/a Kids Obstacle Challenge, an Oregon limited liability company ("Licensee"). Park District and Licensee are hereinafter sometimes individually referred to as a "Party" and collectively as the "Parties."

Recitals

- a. The Park District leases a 36-acre parcel within the Lucent East Parcel of Danada Forest Preserve, commonly known as Danada South (the "Park"), from the Forest Preserve District of DuPage County pursuant to that certain Lease Agreement Between the Forest Preserve District of DuPage County and the Wheaton Park District for the Lease of a Portion of the Lucent East Parcel entered into on November 20, 2013 and amended February 19, 2019 ("Lease").
- b. Licensee desires to use portions of the Park to host an obstacle course race entitled "Kids Obstacle Challenge" for the community (the "Event") at various times beginning on July 23, 2020 and July 26, 2020.
- c. The Lease allows the Park District to sublease or sublicense all or portions of the Park to third-parties groups for special events and activities.
- d. The Park District is willing to grant to Licensee permission to use portions of the Park to conduct the Event, subject to the terms and conditions hereinafter set forth.

Agreement

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Subject to the following terms and conditions contained in this Agreement, the Park District grants to Licensee a license (the "License") to use portions of the Park as designated by the Park District on **Exhibit A** attached to and made a part of this Agreement, to conduct the Event beginning July 23, 2020 and ending July 26, 2020 based on the following schedule:

Date	Hours of Access	Purpose
July 23	9:00 am – 5:00 pm	Staging / Set up
July 24	8:00 am – 6:00 pm	Staging / Set up
July 25	5:30 am – 4:00 pm	Race, Day 1
July 26	5:30 am – 8:00 pm	Race, Day 2 / Teardown

Notwithstanding the foregoing, the Park District reserves the right of access to and use of the Park at all times and in any manner not inconsistent with the rights granted to Licensee under this Agreement, and nothing in this Agreement will prohibit the Park District from using the Park simultaneously with the Licensee so long as Park District's use of the Park does not unreasonably interfere with Licensee's Event.

2. Licensee shall pay to Park District a licensee fee in the amount of Ten Thousand Dollars (\$10,000.00). The Park District must receive fifty percent (50%) of the license fee at its administrative office at 102 E. Wesley St., Wheaton, Illinois within thirty (30) days of the date of execution of this Agreement. The remaining balance Five Thousand Dollars (\$5,000.00) is due no less than sixty (60) days from the first date of rental (on or before April 15, 2020). In the event that the Park District does not receive the license fee by the date specified herein, the Park District has the right to immediately terminate this Agreement and cancel the Event. The Park District and Licensee shall inspect the Use Area and Park both before and after the Event to determine the extent of any damaged incurred, beyond normal wear and tear from the event. Licensee will have 48 hours to repair any identified damages or Licensee shall reimburse the Park District for all expenses incurred by Park District relating to damages resulting from the Event, including costs associated with grounds maintenance cleanup, any supplies purchased by the Park District for the Event, and wages and overtime wages incurred by the Park District and caused by this Agreement, License or Event. Licensee shall make payment of such expenses within five (5) days of a written invoice therefor from Park District.
3. As a condition precedent to Licensee entering the Park, Licensee must obtain any and all permits required by State, Federal and local law necessary for all activities related to and arising out of the Event. Execution of this Agreement shall not constitute Park District's approval of any permits required for the Event.
4. As security for the performance of Licensee's obligations under this Agreement, and contemporaneous with the execution and delivery of this Agreement to the Park District, Licensee shall deposit with the Park District a performance bond in the amount of Fifty Thousand and No/100 dollars (\$50,000.00). The performance bond will be issued using a form similar to the AIA-A312-2010 form, or its current equivalent, or one acceptable to Park District, cosigned by a surety company licensed to conduct business in the State of Illinois and with at least an "A" rating and a financial rating of at least "X" in the latest edition of the Best Insurance Guide. Said bond shall guarantee the faithful performance of Licensee's obligations under this Agreement, including but not limited to payment for any damage to the Park or adjacent property and all costs associated with repairing, replacing or restoring same. Licensee shall name the Park District as an obligee on the performance bond. The performance bond shall become a part of this Agreement.
5. Securing parking areas during the Event for volunteers, vendors, officials or other individuals deemed necessary by Licensee is the sole responsibility of Licensee. All parking arrangements and the name(s) and telephone numbers of the contact persons responsible for such parking arrangements must be verified in writing and submitted by Licensee contemporaneously with its delivery to the Park District of a signed copy of this Agreement. Any expenses associated with parking arrangements will be the sole responsibility of Licensee. Licensee shall obtain the prior written approval of the Village of Lisle ("Village") to use any on or off-street parking areas owned or maintained by the Village, and shall add the entity that owns or provides such parking as an additional named insured on all policies of insurance required hereunder.
6. Park District shall designate an appropriate number of handicap-accessible parking spaces in the parking lot adjacent to the Park for use by patrons of the Event. Licensee shall not permit

vehicles other than those displaying authorized handicap license plates or placards to park in the spaces designated for handicap parking.

7. Security and emergency services for the Event will be the sole responsibility of Licensee and shall conform to such requirements as deemed appropriate by the City. Security police officers will be uniformed, sworn police officers, having jurisdiction within the corporate limits of the Village of Lisle and Forest Preserve District of DuPage County.
8. If applicable, it shall be the sole responsibility of Licensee to ensure that all animals used for the Event are securely contained and under supervision at all times in order to prevent injury to spectators or damage to property.
9. All contractual and financial arrangements necessary for the conduct of the Event shall be negotiated and executed by, and be the sole responsibility and liability of, Licensee. Licensee shall be responsible for, and shall timely pay all costs associated with, the Event, including, but not limited to, production, entertainment, vendor's facilities, public facilities, security, fencing, trash removal, required permits and fines, if any.
10. Authorization for all vehicles requiring access to Park turf must be obtained from Park District staff prior to access. Notwithstanding the foregoing, Licensee is permitted to drive full sizes trucks (3/4 ton Dodge Ram 3500's) as well as a Utility Service Vehicle on the grass for the purposes of setting up obstacles, executing the Event, and tearing down obstacles.
11. All signage, advertising, promotion and directional materials for the Event shall be provided by Licensee at its expense and must be reviewed and approved by the Park District and the Village of Lisle Police Department ("Police Department"), prior to its first use. Licensee may not promote, advertise or sell tickets to the Event until Licensee has obtained the special event permit from the Park District. Park District reserves the right to erect signs or post advertisements by any means or any medium whatsoever for the Event and Licensee agrees that its name may be used in such advertisements and signs. Any advertisements or signs that use Licensee's name shall be reviewed and approved by Licensee prior to its first use.
12. Licensee shall establish a written emergency evacuation plan in case of inclement weather or other emergency. This plan must be reviewed and approved by an authorized representative of the Park District Risk Management Association ("PDRMA") and upon approval, copies given by Licensee to all persons associated with the conduct of the Event, the Police Department and the Park District.
13. Licensee will promptly notify the Park District and the Police Department of any occurrences or possible changes in the conduct of the Event which might affect the scope of the Event, or increase the responsibilities or liabilities, or the costs to the Village, Police Department or Park District. Licensee shall not make or permit any such change without the prior approval of all such affected entities and, if approved, shall be responsible for any and all increased costs incurred by each such affected entity resulting from such change. Licensee shall comply fully with any and all conditions placed on the approval of any such change.
14. After the Event, Licensee shall remove all of Licensee's equipment and properly dispose of all mud, hay, poly liner, and other garbage or waste generated by, during, or in connection with the Event.

15. Licensee shall be responsible for any damage done to Park property, or adjacent property, beyond normal wear and tear resulting from routine usage of the Park, resulting from the Event and Event obstacles. Repairs, maintenance, replacement and restorations relating to such damage shall include, but not be limited to, brush, turf, trees, grass, landscaping, buildings, and any paths, streets, roads, and curbs. All such repairs, maintenance, replacements and restorations will be completed by Park District and Park District shall promptly invoice Licensee for the same. Licensee will immediately remit to Park District payment upon receipt of said invoice and any security deposit provided by Licensee shall not be returned until the remittance is received by Park District and accepted as good funds.
16. Licensee shall provide and maintain, at its cost, insurance coverage in accordance with **Exhibit B** attached to and made a part of this Agreement. Licensee shall indemnify the Park District and the Forest Preserve District of DuPage County in accordance with the Paragraph F of **Exhibit B**.
17. In conducting the Event, Licensee shall comply fully, and shall cause its officers, employees, agents, contractors, subcontractors, vendors, volunteers and invitees to comply fully, with all applicable federal, state, county and local laws, ordinances, rules, regulations and orders, including, without limitation:
 - a. Village Ordinances regulating noise pollution and noise levels in the conduct of the Event and shall include specific language in its entertainment contracts relating to maintaining reasonable noise levels as required by Village Ordinances. To that extent, Licensee grants to Park District the authority to direct any production company or entertainment provider to reduce the noise or music level, as the Park District deems appropriate, but such grant does not impose on, or transfer to, the Park District any obligation to do so or any obligation to make certain that persons providing services, including, without limitation, entertainment services, in connection with the Event comply with applicable laws or regulations.
 - b. Licensee shall comply with all applicable federal, state, county and local laws, rules and regulations relating to its employment of persons working at or on the Event and relating to access to, and participation in activities at, the Event by persons with disabilities.
 - c. All Park District ordinances, rules and regulations for the use of park land apply to the Event, including but not limited to the Park District's Outdoor Athletic Area Policy and its General Use Ordinance, and Licensee agrees to strictly abide by same as well as to comply with all other federal, state and local statutes, ordinances, rules, regulations and orders applicable to the conduct of the Event and the use of park property. Waivers of Park District rules and regulations must be requested in writing by Licensee and approved by the Park District's Board of Park Commissioners. Any waivers of Park District rules and regulations will be in effect for approved Event hours only. Any events, activities, or operations that fall outside the scope of this Agreement must receive prior approval of the Park District's Board of Park Commissioners.
 - d. Licensee shall comply with all applicable rules, regulations and ordinances of the Forest Preserve District of DuPage County.

- e. Licensee shall comply with all State of Illinois and DuPage County requirements, including but not limited to all required licensing and/or permitting for food handling. A copy of said license and/or permit will be a condition precedent to Licensee entering the Park. Any vendors serving food at the Event will be subject to inspection by the DuPage County Department of Health and/or other agencies having jurisdiction over the Park and the Event.

- 18. The Park District reserves the right upon reasonable and mutual agreement of both parties to alter the terms and conditions of the License, or, in addition to the Park District's termination rights in Paragraph 2 of this Agreement, to terminate the License for, or to terminate immediately for purposes deemed necessary for public safety or preservation of property or because Licensee has breached any of its obligations under this Agreement.

Upon termination of this License for any reason, the rights and obligations of the Parties shall cease automatically except for the rights and obligations of the Parties accruing but unsatisfied prior to termination, including but not limited to any obligations under Paragraph 15, 16, and Paragraph F of **Exhibit B**.

- 19. Licensee shall set and collect all fees, charges and admission to the Event.
- 20. Licensee shall provide appropriate levels of security, police, fire and medical support, as judged by Park District in Park District's sole discretion. Licensee shall provide two deputy sheriffs and one contracted EMT for the duration of the Event (7:30am-1:30pm). Medical support shall also include an onsite ambulance. Licensee shall be solely responsible for the costs of any medical, police or fire protection needed under this Agreement.
- 21. Audio communication must be provided at the expense of the Licensee and remain intact for the duration of the Event with Park District staff and with security police officers.
- 22. Licensee shall not bring onto, use or discharge on the Park or other Park District property any hazardous material or substance in violation of federal, state or local laws, rules or regulations, or permit others to do so. Licensee shall forever indemnify, protect and hold harmless Park District from any spill, seepage, damage or release of any hazardous material caused by or arising out of this Agreement which causes any loss, damage, settlement, injury, penalty, fine, liability, settlement, cost or expense whatsoever. The provisions of this Paragraph 22 shall survive termination of the Agreement for an indefinite period.
- 23. The Park District's Board of Commissioners reserves the right to stop, or require modification of, any aspect of the Event operation that is inconsistent with this Agreement, or with Park District policy or which, in the Board's opinion, constitute a threat to the health, safety or welfare of users of the Park, or result in an increased risk of liability to the Park District. The reservation of this right is not intended to impose an obligation upon the Park District to ascertain these matters, and neither the Park District's exercise of this reserved right nor its failure to exercise this reserved right shall create any liability on the part of the Park District or otherwise lessen Licensee's insurance, indemnification and hold harmless obligations under this Agreement.
- 24. Licensee must provide 1 to 150 portable restrooms and wash stations (equivalent to 6 Regular and 2 ADA restrooms) and trash receptacles for the Event if deemed necessary by the Park

District. The port-a-potties and wash stations provided by Licensee shall be handicap accessible and Licensee shall be solely responsible for paying of the rental, use, setup and removal of said port-a-potties, wash stations, and trash receptacles along with any other fees associated with the same, including disposal fees.

25. This License is absolutely non-transferable and can only be used by Licensee. Licensee may not assign this License to any subsidiary of Licensee.
26. No failure by Park District to insist upon the strict performance of any covenant, agreement, term or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or of such covenant, agreement, term or condition. No covenant, agreement, term or condition of this Agreement shall be waived or modified except by a written instrument executed by the Parties.
27. Each Party hereto warrants and represents to the other Party that (a) it has full power and authority to execute and deliver this Agreement and (b) the execution of this Agreement will not violate or constitute a default on its part under any agreement or contract to which it is a party or by which it is bound.
28. All notices, demands, requests, consents, approvals and other communications required or permitted to be given hereunder (a "Notice") shall be in writing be deemed effective three (3) days after mailing if mailed by certified mail with return receipt to the parties hereto and immediately if served personally as follows:

If to Park District: Wheaton Park District
 102 E. Wesley St.
 Wheaton, IL 60187
 Attn: Executive Director

If to Licensee: Bolt Marketing Group, LLC
 DBA: Kids Obstacle Challenge

ATTN: _____

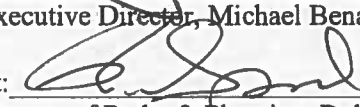
29. Any amendment or alteration to this Agreement must be in a writing executed by both Parties.
30. If any term of the Agreement or the application thereof shall be deemed invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforceable to the fullest extent permitted by law.
31. The parties agree that the laws of the State of Illinois shall control the interpretation and enforcement of this Agreement, the exclusive venue for claims brought under this Agreement shall be the Circuit Court in the county where the Park is located and the Parties hereby submit to the jurisdiction of such Circuit Court.
32. This Agreement may not be recorded with the Recorder of Deeds in the county where the Park is located.

33. This Agreement may be executed by the Parties in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute an original instrument.
34. Nothing contained in this Agreement shall be deemed to construe by the Parties or any third party to create the relationship of principal and agent, of partnership, of joint venture or of any other association whatsoever other than licensor and licensee.
35. Licensee represents that to the best of its knowledge (1) no Park District employee or agent is interested in the business of Licensee or this Agreement except as set forth herein; (2) as of the date of this Agreement neither Licensee nor any person employed or associated with Licensee has any interest that would conflict in any manner or degree with the performance of the obligations under this Agreement; and (3) neither Licensee nor any person employed by or associated with Licensee shall at any time during the term of this Agreement obtain or acquire any interest that would conflict in any manner or degree with the performance of the obligations under this Agreement.
36. Licensee represents and warrants to Park District that (1) Licensee is not barred from contracting with a unit of state or local government as a result of (a) a delinquency in the payment of any tax administered by the Illinois Department of Revenue unless Licensee is contesting, in accordance with the procedures established by the appropriate revenue act, its liability for the tax or the amount of the tax, as set forth in 65 ILCS 5/11-42.1-1 et seq.; or (b) a violation of either Section 33E-3 or Section 33E-4 of Article 33E of the Illinois Criminal Code of 1961, 720 ILCS 5/33E-1 et seq.; and (2) this Agreement is made by Licensee without collusion with any other person, firm, or corporation. If at any time it shall be found that Licensee has, in procuring this Agreement, colluded with any other person, firm, or corporation, then Licensee shall be liable to Park District for all loss or damage that Park District may suffer, and this Agreement shall, at Park District's option, be null and void.
37. Neither party shall be liable to the other nor deemed in default under this Agreement if and to the extent that such party's performance of this Agreement is prevented by reason of extreme weather, riots, strikes, labor disputes, judgments, decrees, injunctions, or acts of governmental authorities, acts of God, and other causes beyond the control of such party ("Force Majeure").
38. Nothing contained in this Agreement shall be construed or deemed to diminish or constitute a waiver or relinquishment of the rights, privileges, defenses and immunities available or afforded to the Park District under the Illinois Local Governmental and Governmental Employee's Tort Immunity Act or under other State statutes affording similar protections.
39. Licensee shall pay any and all sales, use or other taxes which may be legally due and owing to any governmental entity as a result of this Agreement, License and the Event.

IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be executed by a duly authorized officer thereof as of the date first above written.

WHEATON PARK DISTRICT

By: 
Executive Director, Michael Benard

Attest: 
Director of Parks & Planning, Rob Sperl

BOLT MARKETING GROUP, LLC, d/b/a
KIDS OBSTACLE COURSE

By: Molly Stinson

Its: Managing Event Director, Molly Stinson

Attest: Amelia Pokorny

Its: Events Manager, Amelia Pokorny

EXHIBIT A

(Indicate on-site plan general locations)

EXHIBIT B

INSURANCE AND INDEMNIFICATION REQUIREMENTS FOR USE OF DANADA SOUTH PARK

Licensee shall obtain insurance of the types and in the amounts listed below for the purposes of insuring the Wheaton Park District and the Forest Preserve District of DuPage County ("Forest Preserve District"). Park District reserves the right to increase the insurance requirements at any time.

A. Commercial General and Umbrella Liability Insurance

Licensee shall maintain commercial general liability (CGL) and, if necessary, commercial umbrella insurance with a limit of not less than \$2,000,000 each occurrence. If such CGL insurance contains a general aggregate limit, it shall apply separately to this location.

CGL insurance shall be written on Insurance Services Office (ISO) occurrence form CG 00 01 10 93, or a substitute form providing equivalent coverage, and shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).

Park District and Forest Preserve District shall be included as an insured under the CGL, using ISO additional insured endorsements CG 20 26 or a substitute providing equivalent coverage, and under the commercial umbrella, if any. This insurance shall apply as primary insurance with respect to any other insurance or self-insurance afforded to the Park District and Forest Preserve District. Any insurance or self-insurance maintained by the Park District and Forest Preserve District shall be excess of Licensee's insurance and shall not contribute with it.

B. Intentionally Omitted.

C. Business Auto and Umbrella Liability Insurance

If applicable, Licensee shall maintain business auto liability and, if necessary, commercial umbrella liability insurance with a combined limit of not less than \$1,000,000 each accident. Such insurance shall cover liability arising out of any auto including owned, hired and non-owned autos.

Business auto insurance shall be written on Insurance Services Office (ISO) form CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage equivalent to that provided in the 1990 and later editions of CA 00 01.

D. Workers Compensation Insurance

If applicable, Licensee shall maintain workers compensation and employer's liability insurance. The commercial umbrella and/or employers liability limits shall not be less than

\$1,000,000 each accident for bodily injury by accident or \$1,000,000 each employee for bodily injury by disease.

If the Park District and Forest Preserve District have not been included as an insured under the CGL using ISO additional insured endorsement CG 20 11 under the Commercial General and Umbrella Liability Insurance required in this Contract, the Licensee waives all rights against the Park District and Forest Preserve District, and their respective officers, officials, employees, volunteers and agents for recovery of damages arising out of or incident to the Licensee's use of the premises. The Workers Compensation policy shall be endorsed with a waiver of subrogation in favor of the Park District and Forest Preserve District for all activities of the Licensee, its employees, agents and subcontractors.

E. General Insurance Provisions

1. Evidence of Insurance

Prior to using the Park, Licensee shall furnish the Park District with a certificate(s) of insurance and applicable policy endorsement(s), executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth above.

All certificates shall provide for 30 days' written notice to the Park District prior to the cancellation or material change of any insurance referred to therein. Written notice to the Park District shall be by certified mail, return receipt requested.

Failure of the Park District to demand such certificate, endorsement or other evidence of full compliance with these insurance requirements or failure of the Park District to identify a deficiency from evidence that is provided shall not be construed as a waiver of Licensee's obligation to maintain such insurance.

The Park District shall have the right, but not the obligation, to prohibit Licensee from occupying the premises until such certificates or other evidence that insurance has been placed in complete compliance with these requirements is received and approved by the Park District.

Failure to maintain the required insurance may result in termination of this License at Park District's option.

Licensee shall provide certified copies of all insurance policies required above within 10 days of the Park District's written request for said copies.

2. Acceptability of Insurers

For insurance companies which obtain a rating from A.M. Best, that rating should be no less than A VII using the most recent edition of the A.M. Best's Key Rating Guide. If the Best's rating is less than A VII or a Best's rating is not obtained then the Park District has the right to reject insurance written by an insurer that it deems unacceptable.

3. Cross-Liability Coverage

If Licensee's liability policies do not contain the standard ISO separation of insureds provision, or a substantially similar clause, they shall be endorsed to provide cross-liability coverage.

4. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to the Park District. At the option of the Park District, the Licensee may be asked to eliminate such deductibles or self-insured retentions as respects the Park District, its elected and unelected officers, officials, employees, volunteers and agents or required to procure a bond guaranteeing payment of losses and other related costs including but not limited to investigations, claim administration and defense expenses.

F. Indemnification

Licensee shall indemnify and hold harmless the Park District and the Forest Preserve District, and their elected and appointed officers, officials, employees, volunteers and agents from and against all claims, damages, losses and expenses, including but not limited to legal fees (attorney's and paralegals' fees and court costs), arising from or in any way connected with (i) the use of the premises or of any business or activity thereon, or any work or thing whatsoever done, or condition created in or about the premises during the Event based on Licensee's action or inaction ; (ii) any act, omission, wrongful act or negligence of Licensee or any Licensee's contractors or subcontractors, or the partners, directors, officers, agents, employees, invitees of Licensee or Licensee's contractors or subcontractors; (iii) any accident, injury or damage whatsoever occurring in or at the premises regardless of whether or not it is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this Paragraph. Licensee shall similarly protect, indemnify and hold and save harmless the Park District and Forest Preserve District, and their officers, employees, volunteers and agents against and from any and all claims, costs, causes, actions and expenses including but not limited to legal fees, incurred by reason of Licensee's breach of any of its obligations under, or Licensee's default of, any provision of the Agreement.