

Equipment Use Agreement

THIS AGREEMENT is entered into the June 7, 2016 by and between the Wheaton Park District and YMCA of Northwestern DuPage County for the use of the below identified equipment.

NOW, THEREFORE, in consideration of the mutual promises contained in this Agreement, it is hereby agreed and understood as follows:

1. Date(s) of use: 06 / 07 / 2016 thru 06 / 07 / 2017
Date to be returned: 06 / 08 / 2017
2. Type of Equipment: table tennis tables Quantity: 4 and 8 barriers
3. Fee (if applicable): \$ 0
4. Location(s) equipment will be used (if applicable): YMCA of Northwestern DuPage County
5. Borrower is solely responsible for determining if any equipment is safe, suitable, or appropriate for any and all contemplated use. Borrower agrees to inspect the equipment prior to each use.

DISCLAIMER: Borrower acknowledges and agrees that the Park District is neither a manufacturer nor a vendor of the Equipment, and that Borrower takes the Equipment and each part thereof "as-is", and that the Park District has not made, and does not hereby make, any representation, warranty, or covenant, express or implied, whatsoever about the Equipment, including with respect to: (a) compliance with any and all applicable statutes, codes, guidelines or regulations, including, but not limited to ASTM and CPSC; (b) the merchantability, condition, quality, durability, design, operation, fitness for use, or suitability of the Equipment in any respect whatsoever or in connection with or for the purposes and uses of Borrower or any other user, whether foreseeable or otherwise; (c) as to the absence of latent or other defects whether or not discoverable; (d) or as to any obligation based on either negligence, strict liability in tort, warranty, or any other representation, warranty, or covenant of any kind or character, express or implied, with respect thereto, it being agreed that all risks incident to the Equipment and/or its removal, transport, installation, use and performance, are to be borne solely by Borrower. Borrower further acknowledges that the Park District shall not be obligated or liable for actual, incidental, consequential, or any other damages of any kind whatsoever, either to Borrower or to any other person or entity arising out of or in connection with the removal, transport, installation, use or performance of the Equipment and the maintenance thereof. Borrower acknowledges that Borrower has selected the Equipment Borrower is acquiring from the Park District based on Borrower's own judgment and Borrower hereby affirmatively disclaims reliance upon any oral or written representation concerning the Equipment made to Borrower.

6. Borrower expressly understands and agrees that Lender is not providing any supervision or instruction in the use of the above-described equipment and that Borrower is solely responsible for the proper handling, transportation, storage, use, training and instruction, and supervision associated with any borrowed equipment.
7. Borrower shall pay Lender's cost to repair any damage to borrowed equipment, which is not ordinary wear or tear caused by Borrower.
8. Borrower shall use and operate the borrowed equipment in accordance with all applicable professional standards, federal, state and municipal laws, ordinances, rules and regulations, and shall only permit properly trained and qualified persons to operate and/or use the borrowed equipment. All such persons shall be and shall conclusively be deemed to be by the agents or employees of Borrower only.

Borrower shall promptly advise Lender as to any need for repairs and/or service to any borrowed equipment, and shall not use any equipment prior to necessary repairs and/or service.

9. Borrower shall not sublease or loan any borrowed equipment to any third party under any circumstances.
10. **INSURANCE:** Borrower shall at its own expense maintain during the term of this Agreement the following insurance:

A. Commercial General and Umbrella Liability Insurance

Borrower shall maintain commercial general liability (CGL) and, if necessary, commercial umbrella insurance with a limit of not less than \$3,000,000 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 shall be included as an insured under the CGL, using ISO additional insured endorsement 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 Park District. Any insurance or self-insurance maintained by Park District shall be excess of Borrower's insurance and shall not contribute with it.

Park District shall be named as the loss payee with respect to the proceeds of insurance policies relating to loss or damage to the borrowed equipment.

B. Professional Liability Insurance

Borrower shall maintain professional liability and, if necessary, commercial umbrella liability insurance with a limit of not less than \$3,000,000 each wrongful act arising out of the performance or failure to perform professional services.

C. Workers Compensation Insurance

Workers' Compensation and Employers Liability: Workers' compensation limits as required by statute and Employers Liability limits of \$1,000,000 per accident and \$1,000,000 per disease.

If Park District has not been included as an insured under the CGL using ISO additional insured endorsement CG 20 26 under the Commercial General and Umbrella Liability Insurance required in this Contract, the Borrower waives all rights against Park District and its officers, officials, employees, volunteers and agents for recovery of damages arising out of or incident to the Borrower's work.

D. General Insurance Provisions

1. Evidence of Insurance

Prior to use of said equipment, Borrower 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.

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 Borrower's obligation to maintain such insurance.

Park District shall have the right, but not the obligation, of prohibiting Borrower from using the equipment 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 agreement at the Park District's option.

Borrower shall provide certified copies of all insurance policies required above within 10 days of the Park Districts' 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, the Park District has the right to reject insurance written by an insurer it deems unacceptable.

3. Cross-Liability Coverage

If Borrower's liability policies do not contain the standard ISO separation of insured's 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 Borrower may be asked to eliminate such deductibles or self-insured retentions as respects the Park District, its 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.

5. Subcontractors

Borrower shall cause each subcontractor employed by Borrower to purchase and maintain insurance of the type specified above. When requested by the Park District, Borrower shall furnish copies of certificates of insurance evidencing coverage for each subcontractor.

F. Indemnification

Borrower shall indemnify and hold harmless the Park District and its 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 equipment and/or 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 use; (ii) any act, omission, wrongful act or negligence of Borrower or any of Borrower's employees, contractors or subcontractors, clients, patients, or the partners, directors, officers, or agents of Borrower; (iii) any accident, injury or damage whatsoever arising out of or in connected with use of the equipment or 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. Borrower shall similarly protect, indemnify and hold and save harmless the Park District, its officers, officials, 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 Borrower's breach of any of its obligations under, or Borrower's default of, any provision of this agreement.

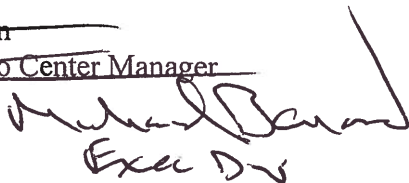
12. This Agreement is entered into solely for the benefit of the contracting parties, and nothing in this Agreement is intended, either expressly or impliedly, to provide any right or benefit of any kind whatsoever to any person or entity who is not a party to this Agreement, or to acknowledge, establish or impose any legal duty to any third party.
13. This Agreement may only be modified by written mutual consent.

The below parties accept the terms and conditions of this Agreement.

Signed



~~Linda Dolan~~
~~Mary Lubko Center Manager~~



Exec Dir

Signed



Tammy Lemke
Chief Executive Officer

Lemke@ryallymca.org



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
6/16/2016

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Esser Hayes Insurance Group 1811 High Grove, Suite 139 Naperville IL 60540-9100	CONTACT NAME:	
	PHONE (A/C, No, Ext): 630-355-2077	FAX (A/C, No): 630-355-7996
INSURED B R Ryall YMCA 49 Deicke Drive Glen Ellyn IL 60137	INSURER(S) AFFORDING COVERAGE	
	INSURER A : National Specialty - Westbend	
	INSURER B :	
	INSURER C :	
	INSURER D :	
	INSURER E :	

COVERAGES **CERTIFICATE NUMBER:** 544114048 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y		NSA1299744	1/20/2016	1/20/2017	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$200,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 \$
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS			NSA1299744	1/20/2016	1/20/2017	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ N/A			NUA1299744	1/20/2016	1/20/2017	EACH OCCURRENCE \$5,000,000 AGGREGATE \$5,000,000 \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	N/A	SCA2194414	1/20/2016	1/20/2017	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$500,000 E.L. DISEASE - EA EMPLOYEE \$500,000 E.L. DISEASE - POLICY LIMIT \$500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

ADDITIONAL INSURED ON GENERAL LIABILITY: WHEATON PARK DISTRICT

CERTIFICATE HOLDER

WHEATON PARK DISTRICT 102 E WESLEY STREET WHEATON IL 60187	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE

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