

**RIVERCREST COMMUNITY DEVELOPMENT DISTRICT
FACILITIES USE AGREEMENT**

THIS AGREEMENT is entered into between _____
(the "Organization"), whose address is _____,
and RIVERCREST COMMUNITY DEVELOPMENT DISTRICT (the "District"), a political
subdivision of the State of Florida, by and through its Board of Supervisors, whose address is
_____, for the use of District facilities including:
_____, (the "Facilities").

WITNESSETH:

WHEREAS, the Organization and the District are mutually interested in promoting and youth sports and the benefits of sports on the participants, their families, and the community; and

WHEREAS, the Organization and the District desire to provide the best possible youth sports program at the least cost to participants and users of the Facilities; and

WHEREAS, the District agree is willing to allow the Organization to use of the Facilities so long as its use does not cause hardship or interfere with other District programs, use by DISTRICT residents, or the proper maintenance of the Facilities; and

WHEREAS, it is in the best interest of the Parties to outline the details of such cooperation in this Agreement.

NOW THEREFORE, IN CONSIDERATION of the mutual promises and covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, the Parties hereby agree as follows:

SECTION 1. RECITALS.

The foregoing whereas clauses are incorporated herein by reference and made a part hereof.

SECTION 2. RESPONSIBILITIES AND OBLIGATIONS OF THE ORGANIZATION.

The Organization shall have the non-exclusive use of the Facilities in accordance with the terms of this Agreement. Notwithstanding this Agreement or anything contained herein, the Organization has no authority to prohibit, interfere with, delay, or hinder the use of the Facilities by the District or District residents and guests at any time.

A. Facilities Use

1. Activities and Hours. The Organization shall have the right to access and use the Facilities for the following youth recreational sport(s): _____ during the following time period(s): _____.

2. Season Schedule. The Organization shall provide to the District its proposed written season schedule ("Season Schedule") conforming to the above time period(s) at least (14) days prior to the start of the Season. The Season Schedule shall list the proposed activities, dates, and times. The Season Schedule must include adequate resting time of the fields. The amount of time required for adequate resting time shall be determined by the District in its sole discretion. The

Organization must obtain the prior written approval of the District of each Season Schedule before commencing or providing any Activities pursuant to this Agreement.

3. Keys. Upon the District's approval of the Season Schedule, keys will be issued to the Organization for buildings, facilities, gates, and lights, as applicable. Keys are to be monitored closely by Organization officials. The Organization is responsible for collecting keys from coaches and officials leaving the Organization and for returning the keys to the District within seven days of the end of the Season, the termination or cancellation of this Agreement, or such other times as reasonably requested by the District. In the event any keys provided to the Organization are not returned to the District at the end of the Season, upon the termination or cancellation of this Agreement, or at such other time reasonably requested by the District, the Organization shall be responsible for the costs of new keys and/or rekeying the Facilities.

4. Additional use. The Organization must obtain the prior written approval of the District for use of the Facilities at any time outside of the approved Season Schedule, including for playoffs, tournaments, all-star games, clinics, camps or special events held by the Organization, subject to the Category II Fee Schedule. Requests made pursuant to this paragraph may be denied for any reason.

5. The Organization shall comply with the following:

- a. The Organization shall adopt and adhere to a policy pertaining to youth athlete concussions in accordance with applicable law including § 943.0438(2)(g), *Florida Statutes*, which requires that each youth athlete who is suspected of sustaining a concussion or head injury in a practice or competition is to be immediately removed from the activity. A youth athlete who has been removed from an activity may not return to practice or competition until the youth submits to the Organization a written medical clearance to return stating that the youth athlete no longer exhibits signs, symptoms, or behaviors consistent with a concussion or other head injury. Medical clearance must be authorized by the appropriate health care practitioner trained in the diagnosis, evaluation, and management of concussions as defined by the Sports Medicine Advisory Committee of the Florida High School Athletic Association.
- b. The Organization is responsible for providing all staff and equipment necessary for operating its program.
- c. The Organization may not lease, assign, convey, or transfer any interest in or right of use of the Facilities.
- d. The Organization shall not charge an admission fee nor restrict access to the Facilities. However, the Organization may receive donations provided signage is clearly marked "Donation."
- e. Organization must inspect the Facilities for vandalism and must secure and lock all Facilities, including restrooms, after use.
- f. Animals are prohibited in, on or around the Facilities. Smoking and use of alcohol, tobacco, and illegal drugs is strictly prohibited during all youth activities.

- g. Parking is allowed in designated areas only. No vehicles or equipment are allowed in or on Facilities or field areas without the prior written approval of the District.
- h. In the case of LIGHTNING or THUNDER, the outdoor Facilities and fields must be vacated immediately and all individuals moved to a covered building or parked vehicles. Activities may resume thirty (30) minutes after the last thunder sound or lightning sighting. If individuals associated with the Organization are found practicing/playing during lightning and/or thunder conditions, this Agreement may be terminated at the discretion of the District.
- i. All accidents and injuries must be reported to the District within 24 hours. If an emergency situation arises, the Organization shall contact 911 immediately and then notify the District Manager or designee.
- j. The Organization may not alter or add to the Facilities or fields in any way without the prior written approval of the District, which may be withheld for any reason at the sole discretion of the District.
- k. The Organization shall not permit any activity inconsistent with this Agreement. The Organization is responsible for informing its members of the content, restrictions and requirements of this Agreement.

B. Fees

The fee categories are as follows:

1. Category I and II Fees Schedules as adopted by the District apply to the Organization's use of the facilities. Rental fee for the event is _____ or 10% of fees charged by Requestor to Resident Participants and 15% of fees charged to approved Non-resident Participants. Fee schedules may be changed at the direction of the Board of Supervisors. Rental fees are due and payable on a monthly basis on the fifteenth of each month for the previous month.

2. Participant Fees Schedule

DISTRICT resident for _____	\$ _____.
Non- DISTRICT resident for _____	\$ _____.

C. Personnel and Accounting

- 1. The Organization shall submit a written list of the names, addresses, and phone numbers of all officers, board members, staff working the events and copies of all other operational procedures and expected revenues at least (14) days prior to start of each season.
- 2. Background screening of coaches and volunteers. The Organization shall provide a signed and notarized affidavit attesting that background screening for all coaches and volunteers providing any services under or in connection with this Agreement has been performed. The

Organization may not employ or use any coaches and volunteers listed as a Sexual Offender/Predator on the Florida Department of Law Enforcement (FDLE) website at www.fdle.state.fl.us or the United States Department of Justice National Sexual Offender website at www.nsopw.gov and must comply with § 943.0438, *Florida Statutes*, at least (14) days prior to the beginning of the respective sports season. Supplemental affidavits shall be required prior to new or additional coaches or volunteers providing any services under or in connection with this Agreement. No coach, assistant coach, or referee shall commence any activities at the Facilities until such time the background screening is completed and provided to the District.

D. Maintenance and Cleanliness.

1. The Organization shall comply with the following:

a. The Organization shall pick up and properly dispose of or recycle trash and litter from all Facilities accessed or used by the Organization at the conclusion of each and every activity. The Organization shall return the Facilities to the condition they were in prior to use that day, unless the Organization obtains prior written approval from the District for any alteration to the Facilities or the condition of the Facilities.

b. Painting or chalk lining of athletic fields for regular season play and approved tournament, and all-star games, clinics, camps or special events held by the Organization is the responsibility of the Organization, upon the prior written approval of the District.

c. The Organization shall collect and return all equipment to its proper location upon the conclusion of each and every activity. The Organization shall collect and promptly remove all equipment and personal property from the Facilities before the end of each day.

d. The Organization shall inspect the Facilities for safety prior to and after use by participants. After use, the Organization shall rake and fill any holes.

e. The Organization shall monitor participants to assure that no damage, vandalism, or abuse of the District's facilities occurs. Balls are not to be kicked, thrown, or hit into fences or buildings. The Organization must provide and/or use designated practice areas.

f. In the event of inclement weather, the District Manager or designee shall determine playability of the fields and shall notify the Organization accordingly. Should inclement weather occur when the District staff is not present at the Facilities, the Organizations' President or designee shall determine the playability of the fields. If damage to the Facilities or fields results from any use by the Organization, the Organization shall be financially responsible for repair.

g. The Organization is responsible for any damages to the Facilities caused or contributed to by the Organization or any of its participants, spectators, or visitors. The Organization shall repair any such damage within the time requested by the District.

If the Organization fails to repair such damage within the time requested by the District, the District may at its sole discretion, repair the damage and charge the costs of doing so directly to the Organization. The Organization agrees to pay such amounts within (30) days of receipt of a request or invoice from the District. The Organization is liable for any and all costs related to repairs for any damage to the Facilities caused or contributed to by the Organization or any of its participants, spectators, or visitors

2. The District is not responsible for providing any staff or equipment for the Organization activities and is not responsible for the condition of the Facilities during or created by the Organization's activities.

3. Facility Closure. The District may close a facility or field or suspend use for maintenance or other reasons. Whenever possible, and except in the case of an emergency or inclement weather, the District will notify the Organization at least (14) days prior to any scheduled closings of the facility or suspension of field use.

SECTION 3. ALTERATIONS AND CAPITAL IMPROVEMENTS PROJECTS.

The Organization shall not make any alteration or modification of any kind to the Facilities or any District property, or construct any facility or structure including, but not limited to, scoreboards, concession stands, storage rooms, grand stands, bleachers, press boxes, trenches, mounds, landscaping, or field alterations, without the prior written consent of the District. The Organization may not interfere with or make any alterations to existing District systems or property, including, but not limited to, irrigation, electrical, etc.

SECTION 4. TERM AND TERMINATION

The term of this Agreement shall be _____ (“Term”), commencing on _____ and concluding on _____ (“End Date”). The Agreement will automatically terminate on the End Date, unless sooner terminated by the District pursuant to this Agreement, or if both parties agree in writing to extend the Agreement for an additional Term. If the Organization desires to extend the Term, the Organization must notify the District of its request to extend the Term at least 30 days before the End Date. The District has may unilaterally terminate this Agreement, without cause, upon (30) days written notice pursuant to the Organization. The District may unilaterally terminate this Agreement immediately upon notice to the Organization for cause for any breach causing or resulting in any property damage or personal injury.

SECTION 5. NOTICES

All notices required or permitted hereunder shall be deemed duly given if sent by certified mail, postage prepaid, addressed to the parties as follows:

If to the DISTRICT:

Rivercrest Community Development District
11560 Ramble Creek Drive
Riverview, FL 33569

With a copy to:
Meritus

If to the Organization:

SECTION 6. MISCELLANEOUS PROVISIONS

1. **Prior Agreements.** This Agreement represents the entire Agreement between the Parties and supersedes any and all prior and/or existing agreements, negotiations or understandings, written or oral, relating to the matters set forth herein. Prior and/or existing agreements, negotiations, or understandings, if any, shall have no force or affect whatsoever on this Agreement.
2. **Assignment.** No assignment, delegation, transfer, or novation of this Agreement or any part hereof shall be made unless approved in writing and signed by the Parties to this Agreement.
3. **Severability.** If any part, term or provision of this Agreement is held to be illegal, unenforceable or in conflict with any applicable Federal, State, or local law or regulation, such part, term or provision shall be severable with the remainder of this Agreement remaining valid and enforceable.
4. **Amendments.** This Agreement constitutes to the entire agreement between the Parties related to the Organizations use of the Facilities. No modification, addendum, or amendments of any kind whatsoever may be made to this Agreement unless approved in writing and signed by the Parties to this Agreement.
5. **Nonexclusive Use.** This Agreement creates a nonexclusive permissive use only of the Facilities and shall not operate to create or to vest any property rights in the Organization.
6. **Sovereign Immunity.** Nothing in this Agreement shall be construed in any way to waive the sovereign immunity of the District under Section 768.28, Fla. Stat. The Organization shall be and act as independent contractors, and under no circumstances shall this Agreement be construed as one of agency, partnership or joint venture of employment between the Organization and the District and/or agency thereof. None of the personnel under contract with, employed by, volunteering for, or participating with the Organization shall be deemed in anyway to have any contractual relationship with the District and/or agency thereof. The Organization shall be solely responsible for the conduct of its employees and agents in connection with their performance of obligations hereunder.
7. **Indemnification.** The Organization, on behalf of itself and its officers, directors, members, managers, employees, agents, representatives, and participants, hereby acknowledges and agrees that all sports activities have the possibility of, or inherent risk of, injury to the participants. The Organization, on behalf of itself and its participants, accepts such risk by participating in sports activities at District facilities. The Organization will indemnify and hold

harmless the District and its respective landowners, members, residents, supervisors, managers, officers, agents, and employees from any and all liability and/or claims, demands, judgments, suits, causes of action, and attorneys' fees and costs arising out of or related to this Agreement, the activities, and/or the use of the Facilities. The Organization hereby agrees to indemnify and hold harmless the District and its landowners, members, residents, supervisors, managers, officers, agents, and employees from any and all liability and/or claims, demands, judgments, suits, causes of action, and attorneys' fees and costs assessed against it or them arising out of the negligence or willful misconduct of the Organization or its participants arising from or related to the Organization's use of the Facilities which is the subject of this Agreement. The Organization shall obtain liability insurance and the District shall be named as a certificate holder and as an additional insured in the amount of One Million and 00/100 Dollars (\$1,000,000.00) for each season, preseason, post season, tournaments, special event(s) and any and all activities contemplated herein or provided by the Organization. Insurance required must be written by an insurer authorized to do business in the State of Florida and also have an "A" policyholder's rating and a financial rating of at least Class VIII, in accordance with the most current Best's Key Rating. A copy of this Certificate of Insurance must be presented to the District prior to the start of an approved Season Schedule or any activities contemplated hereunder. Nothing in this Agreement shall be construed in any way to waive the sovereign immunity of the District. The provisions of this paragraph shall survive the Term and/or termination of this Agreement.

8. Governing Law. This Agreement shall be governed by the laws of the State of Florida and venue for any litigation about this Agreement shall be in the 13th Judicial Circuit in and for Hillsborough County, Florida. The prevailing party in any litigation or other action arising from or related to this Agreement or the enforcement of any of the provisions of this Agreement shall be entitled to recover their attorney's fees and costs.

9. Time is of the Essence. Time is of the essence to all parts of this Agreement.

10. Force Majeure. Neither party shall be responsible for events beyond its reasonable control, such as acts of God, weather delays, government restrictions, or unforeseen commercial delays.

11. Third Party Beneficiaries. The Parties hereby acknowledge and agree that this Agreement does not confer any rights on any persons or entities other than the Parties to this Agreement. No person or entity not a party to this Agreement shall have any claim or cause of action against the District for the failure of any party to perform in accordance with the provisions of this Agreement except as may be provided by law.

12. Penalties. Upon the breach or violation of any of the terms of this Agreement, the District at its sole discretion, do any one or more of the following:

- a. Terminate this Agreement.
- b. Suspend Facilities Use Rights.
- c. Repair any damages remove any unapproved facility modifications.

IN WITNESS WHEREOF, this Agreement has been executed by and on behalf the Parties on the dates indicated below.

RIVERCREST COMMUNITY
DEVELOPMENT DISTRICT

Signed: _____

BY: _____
(NAME)

ITS: _____
(TITLE)

(ORGANIZATION)

Signed: _____

BY: _____
(NAME)

ITS: _____
(TITLE)