

Said "ice rental" shall be understood to include use of the ice rink proper, common areas (lobby, seating areas, restrooms, and hallways), locker rooms, sound system and microphone, hockey goals, scoreboard and controls, lighting, janitorial services, and other miscellaneous services typically provided as part of the usage described herein. Lessee shall leave the premises in as good a condition as they were at the time of entry thereon, reasonable wear and tear and damage by the elements excepted.

2. Ice Resurfacing. The ice shall be resurfaced prior to each rental time period secured by Lessee. Lessee may request that the ice be resurfaced during its rental time period. Time spent resurfacing conducted at the request of Lessee shall count against the rental time agreed to.

3. Payment Terms and Conditions. The rent to be paid to the City shall be One Hundred and no/100 dollars (\$100.00) per hour for Prime Time and Sixty and no/100 dollars (\$60.00) per hour for Non-Prime Time (sales tax included). Payment shall be due in advance prior to commencement of the rental period. Failure to remit payment as required on the date(s) due shall be grounds for denial of ice rental for any date(s) remaining under this contract.

4. Interest. The City reserves the right to charge a 1.5% finance charge per month for any unpaid bill that extends 30 days beyond the due date.

5. Definitions of Prime Time and Non-Prime Time. Prime Time is from 3:00 p.m. until 10:00 p.m. on any school day, and from 8:00 a.m. until 10:00 p.m. on any non-school day. Non-Prime Time includes all other time periods.

6. Cancellations. When the City is unable to provide ice time as scheduled due to breakdown or act of nature, Lessee will have the option of not being charged for that ice time or

scheduling additional ice time at the agreed upon price. When Lessee is unable to utilize scheduled ice time due to an act of nature, it will be given the opportunity to schedule additional ice time at no cost in the amount equal to that affected by the act of nature.

7. Merchandise or Services. The sale of any and all merchandise or services by Lessee or any of its officers, agents, employees, players, or guests, within or on the premises of the ice arena must be approved by the Ice Arena Manager, and such approval shall not be unreasonably withheld. The City reserves the right to deny approval for the sale of merchandise it considers offensive, inappropriate for sale in a public facility, or which competes in whole or in part with goods or services already provided within the facility.

8. Rules and Regulations. It is agreed by and between the parties hereto that the rules and regulations of the Roosevelt Ice Arena shall be and are a part of this rental agreement as though they were set out in full herein, and are specifically incorporated as a part of hereof by reference. The Club hereby acknowledges receipt of a copy of said rules and regulations currently in place and by signed addendum will acknowledge receipt of any additional rules and regulations. Violation of any of the rules and regulations by any player, volunteer, or employee of the Club shall be grounds to bar future use of the Ice Arena by that person, according to the Ice Arena's zero tolerance and disciplinary action programs.

9. Indemnification and Hold Harmless.

Lessee shall defend, indemnify, and hold the City, its officers, employees, and agents harmless from and against any and all liability, loss, expense (including costs and attorney's fees), or claims for injury or damage arising out of the performance of this Agreement, but only in proportion to and to the extent such liability, loss, expense, attorney's fees, or claims for injury

or damages are caused by or result from the negligent or intentional acts or omissions of Lessee its officers, directors, volunteers, agents, or employees.

The City shall defend, indemnify, and hold Lessee its officers, employees, and agents harmless from and against any and all liability, loss, expense (including costs and attorney's fees), or claims for injury or damage arising out of the performance of this Agreement, but only in proportion to and to the extent such liability, loss, expense, attorney's fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of the City, its officers, directors, volunteers, agents, or employees.

10. Admission. Lessee shall have the right to charge admission for spectators for purposes of special events with prior written approval from the Ice Arena Manager or appropriate City official. Both parties shall have the right to admit, control, or eject spectators during any skating session.

11. Assignment. Lessee shall not assign or transfer its rights and privileges granted under this agreement, either in whole or in part, without first obtaining the written consent of the City. Exchanges of ice rental time between it and another authorized ice user may be permitted upon prior written approval of the Ice Arena Manager. The resale of ice time by Lessee is specifically prohibited.

12. Termination. The City may terminate this agreement in the event any payment herein agreed to be made is in arrears and remains unpaid for a period of fifteen (15) days after the same is due, or in the event any of the other provisions, terms, or conditions of this agreement have been violated upon giving ten (10) days' written notice to Lessee to cure the violation and the City's intention to so terminate and, at the end of said ten (10) days, all the

rights of Lessee hereunder shall terminate unless said violation is cured to the satisfaction of the City Recreation Manager or other agents or officials of the City.

Such termination shall not waive the right of the City to recover damages from Lessee for its failure to comply with the terms of this agreement. The acceptance of monies due the City for any period or periods after a default of any of the terms, covenants, or conditions of this agreement shall not be deemed a waiver on the part of the City. No waiver of default by the City of any of the terms, covenants, or conditions hereof shall be construed to be or act as a waiver of any subsequent default of any of the terms, covenants, and conditions herein contained to be performed, kept, and observed by Lessee.

13. Removal on Termination. On the date of termination hereof, or in case of the termination of the relationship created by this agreement prior thereto, Lessee shall have the right to remove from said premises all personal property, fixtures, and equipment not a part of the real estate, installed by and title to which the party retains; subject, however, to any valid lien or claim which the City may have for unpaid fees; provided, also, that if said removal causes any damage to the premises, said Lessee will repair the same in a proper and satisfactory manner at its own expense.

14. Severability. If any provision of this agreement shall be invalid for any reason, such invalidity shall not affect the remaining provisions herein, the parties to this agreement hereby declaring that they would have agreed to the other provisions of this agreement notwithstanding such invalidity.

15. Disputes. The parties agree that they initially shall attempt to resolve any dispute regarding ice time and fees, and issues related thereto, through direct negotiation. If the dispute is not resolved within ten (10) days after written demand for direct negotiation, the parties shall

attempt to resolve the dispute through mediation, with a mediator jointly chosen by the parties, and the cost borne equally by the parties. If the mediator is unable to facilitate a settlement of the dispute within a reasonable period of time, as determined by the mediator, the mediator shall issue a written statement to the parties to that effect and such statement shall be a prerequisite to the commencement of any legal action.

16. Venue; Choice of Law. Any lawsuit under this Agreement shall be venued in the Seventh Circuit Court, Rapid City, South Dakota. This Agreement shall be interpreted under the laws of the State of South Dakota.

WITNESSETH, the parties hereto execute this agreement on the _____ day of _____, 2003.

ROOSEVELT ICE ARENA MANAGER LESSEE

Prepared By: CITY ATTORNEY'S OFFICE