

**AGREEMENT FOR USE OF CITY ICE ARENA BY
Advantage Sports Group LLC (Ice and Room Rental)**

THIS AGREEMENT is made and entered into as of this September 1, 2020 by and between the CITY OF SHAKOPEE, a municipal corporation of the State of Minnesota, ("City") and Advantage Sports Group LLC, a Minnesota Limited Liability Company ("Advantage Sports").

Recitals

- A. The City has a two-sheet Ice Arena located at 1225 Fuller Street ("Ice Arena").
- B. Advantage Sports operates a private AAA hockey program and desires to use a portion of the Ice Arena for ice time and room rentals for its AAA program and camp players.
- C. Advantage Sports and the City previously entered into an Agreement dated December 17, 2019 ("Previous Agreement") relating to use of a portion of the Ice Arena.
- D. Advantage Sports and the City desire to terminate the Previous Agreement and to enter into this Agreement setting for the terms by which Advantage Sports will use the Ice Arena to rent a minimum of 800 hours of ice time annually and use certain spaces ("Premises") in the Ice Arena.

NOW THEREFORE, in consideration of the mutual promises contained in this Agreement, the City and Advantage Sports agree as follows:

- 1. Term. This Agreement commences on September 1, 2020 and extends through August 31, 2025, at which time it will automatically terminate, unless either party otherwise earlier terminates the Agreement pursuant to Paragraph 20. During the term of this Agreement, Advantage Sports shall have the right to use the portions of the Ice Arena described in this Agreement in accordance with the terms set forth in Attachment A to this Agreement.
- 2. Payment. Advantage Sports shall pay the annual amounts set forth in Paragraph 1.c in Attachment A to this Agreement for its use of the Ice Arena as described in this Agreement. Advantage Sports shall pay the annual payment in equal monthly installments beginning on September 1, 2020.
- 3. Ice Time. Advantage Sports is granted ice time during the times and under the terms and conditions set forth in Attachment A to this Agreement.
- 4. Upstairs Meeting Room and Hallway Coaches' Room. Advantage Sports is granted exclusive use of the upstairs meeting room and a hallway coaches' room.
- 5. Improvements. Advantage Sports shall construct, at its sole expense, the build out of the upstairs meeting room and hallway coaches' room. Advantage Sports shall deliver to the City a complete set of plans and specifications in form of drawings or construction drawings identifying Advantage Sports' layout for both spaces. Any alteration, addition or

improvement made to the spaces (other than movable equipment, furniture and other trade fixtures owned by Advantage Sports) will become property of the City upon expiration or termination of this agreement. The rights granted to Advantage Sports under this section are exclusive and personal to Advantage Sports and may not be assigned or transferred to any other party, without written consent of the City.

6. Use of Ice Arena. Advantage Sports shall use the Ice Arena for their AAA program and Camps they decide to operate during the year. Advantage Sports shall not create a nuisance or use of the Ice Arena for any illegal or immoral purposes.
7. Compliance With Laws. The City warrants that the physical condition of the Ice Arena will comply with all applicable laws, ordinances, rules and governmental regulations ("Applicable Laws"). The City shall comply with all Applicable Laws regarding the physical condition of Ice Arena, except to the extent that Advantage Sports must comply with Applicable Laws. Advantage Sports shall comply with all Applicable Laws regarding the physical condition of the Ice Arena to the extent the Applicable Laws pertain to the particular manner in which Advantage Sports uses the Ice Arena or to the lawful use of the Ice Arena, such as laws governing maximum occupancy and illegal business operations.
8. Services and Utilities. The City shall at its expense:
 - a. Provide heating, ventilation and air conditioning (HVAC) for the Ice Arena to maintain comfortable temperatures during the times that Advantage Sports uses the Ice Arena.
 - b. Provide electricity to the Ice Arena in reasonable amounts necessary for Advantage Sports' use of the Ice Arena.
 - c. Provide expendables such as light bulbs, toilet paper and the like.
 - d. Provide trash disposal from the building receptacles; and
 - e. Maintain common areas in the Ice Arena.
9. Advantage Sports Use and Care of Premises. Advantage Sports Shall:
 - a. Keep the Premises and fixtures in good order;
 - b. Make repairs and replacements to the Premises needed because of Advantage Sports' misuse or primary negligence; and
 - c. Not commit waste.
 - d. Maintain and clean Premises on a regular daily basis based on customer usage. This includes cleaning, mopping, disinfecting and depositing trash into proper building receptacles.
 - e. Cooperate with the Contractor's Staff assigned to oversee the Shakopee Ice Arena.
 - f. Be responsible for any losses due to theft, employee errors, vandalism or power failures occurring on the Premises.
 - g. Follow the City's no smoking, tobacco and alcohol policy and premises policies, which regulate permissible activities and does not allow any smoking or drinking within the Shakopee Ice Arena building or surrounding property.
 - h. Maintain and implement a hiring process that provides for a criminal background check for its staff working at the Premises throughout the term of the lease.
 - i. Upon termination or expiration of this Agreement, remove from the Premises its personal property, trade fixtures, and any alterations required to be removed, and shall repair any damage to the premises caused by their removal.

10. Interruption of Services. The City explicitly does not warrant that any services the City supplies to the Ice Arena will not be interrupted. Services may be interrupted because of accidents, repairs, alterations, improvements, or any reason beyond the reasonable control of the City. No interruption shall make the City liable to Advantage Sports for monetary damages of any nature. The City may enter the Premises at reasonable times, and at any time in the case of an emergency, without charge, liability, or abatement of Rent, to make repairs, alterations, improvements, and additions either required or advisable to preserve the safety and physical condition of part of all the Shakopee Ice Arena.
11. Applicable Law. Minnesota law shall be used to construe and interpret this Agreement, without giving effect to the principles of conflict of laws. All proceedings related to this Agreement shall be venued in the State of Minnesota.
12. Data Practices Act. All of the data created, collected, received, stored, used, maintained, or disseminated by the City in the performance of this Agreement is subject to the requirements of the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13.
13. Indemnity. Advantage Sports shall defend, indemnify and hold harmless the City, its officers, agents and employees, against all suits, demands, causes of action, liabilities, or claims for injury or damages of whatever nature, including death or damage to property, arising out of or related to this Agreement or Advantage Sports' use of the Ice Arena and the use of the Ice Arena by Advantage Sports' officers, employees, agents, students, guests or invitees.
14. Alterations. Except as otherwise allowed in this Agreement, Advantage Sports shall not make alterations without the City's advance written consent. "Alterations" means additions, substitutions, installations, improvements, and similar changes to the physical condition of the Ice Arena.
15. Entire Agreement. This Agreement is the complete and exclusive statement of the terms agreed upon and shall supersede all prior negotiations, understandings or agreements. Any alterations, variations, modifications or waivers of the Agreement shall only be valid when they are agreed to in writing and signed by authorized representatives of Advantage Sports and the City.
16. Assignment. Neither party may assign this Agreement or any of the rights, duties or payments arising under this Agreement to any third party without the written consent of the other.
17. Notices. All notices required under this Agreement must be in writing and provided to the designated contact person for the other party. The parties shall keep each other informed in writing of any change in the designated contact person. At the time of the execution of this Agreement, the following persons are the designated contacts:

Advantage Sports Group LLC

Calvin Simon and Chris Boetl
Co-owners
5021 Lincoln Circle
Edina MN 55346
952-564-1671/651-983-4480
calvinthecoach@gmail.com and
mphhockeymn@gmail.com

City Contact

Troy Ciernia
Recreation Facilities Manager
tciernia@shakopeemn.gov
952-233-9530

18. Miscellaneous.

- a. The City has the exclusive right to operate or manage concession sales at the Ice Arena for the sale of food and beverages, including food and beverages dispensed from vending machines. Advantage Sports may not bring food or beverages for sale or distribution in the Ice Arena with prior written approval from the City.
- b. Advantage Sports may not post advertisements in any portion of the Ice Arena without prior written approval from the City.
- c. Advantage Sports will have shared use of the Ice Arena parking lot on a first-come, first-served basis. Advantage Sports may not prohibit, regulate, or obstruct use of the Ice Arena parking lot by others.
- d. Advantage Sports will have the right to one (1) in-ice logo and the right to hang one (1) banner in the arena (banner must be pre-approved by City staff).

19. Severability. If any portion of this Agreement is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and conditions shall not be affected and the rights and obligations of the parties under this Agreement shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.

20. Termination. Notwithstanding any other provision in this Agreement, the City may terminate this Agreement by providing written notice of termination to Advantage Sports any time between March 1 and May 30th of any calendar year. Advantage Sports may terminate this Agreement for the fourth and fifth years (commencing on September 1, 2023 and September 1, 2024, respectively) by providing written notification to the City no later than May 30, 2022. Upon such termination by either party, this Agreement becomes null, void, and of no effect and neither the City nor Advantage Sports shall have any further rights or liability under this Agreement.

21. Termination of Previous Agreement. The Previous Agreement is terminated and is null, void, and of no effect. Neither the City nor Advantage Sports has any further rights, obligations or liability under the Previous Agreement.

IN WITNESS WHEREOF, the undersigned parties acknowledge that they have read and understand this Agreement and have executed it on the dates recorded below.

Advantage Sports Group LLC

Date: _____

By _____
Calvin Simon
Its _____

By _____
Chris Boetl
Its _____

CITY OF SHAKOPEE

Date: _____

By: _____
Its Mayor

By: _____
Its City Administrator

ATTACHMENT A

1. Schedule of payments, Ice Allocation and reserved dates/ times:
 - a. Any ice time beyond the 800 total hours in this agreement will be billed at the City's market rate and scheduled based on availability. All hours will be used at the non-prime time rate. Mornings before 3pm during the winter and Spring/ Summer non-prime time.
 - b. Ice Allocation: The priority for ice allocation with determined by season:
 - i. Fall/Winter
 - City Programs
 - School district -per contract
 - SYHA-per contract
 - Advantage Sports Group LLC -per contract
 - Other users, with priority given based on volume of the request
 - ii. Spring/Summer
 - City Programs
 - Advantage Sports Group LLC -per contract
 - Other users in order of volume of ice requests
 - iii. Special Mid-Summer Season
 - City Programs
 - Advantage Sports Group LLC -per contract
 - Priority determined by order of request. (First request received will be scheduled first)
 - c. Contract Price:

Year 1 (September 1, 2020-August 31, 2021)

- 800 hours of ice at \$165/hr: \$132,000/year
- Meeting room space lease: \$6,000/year
- Hallway Coaches' room \$2,000/year
- Total Annual Amount = \$140,000**

Years 2-5

- 2.5% greater than the Total Annual Amount for the previous year

2. The City shall provide an on-duty manager and ice maintenance personnel.