

27TH BOARD OF
REPRESENTATIVES
CITY OF STAMFORD

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ROBERT "GABE" DELUCA

**RESOLUTION NO. 3129
APPROVING A LEASE AGREEMENT BETWEEN THE
CITY OF STAMFORD AND THE STAMFORD GOLF AUTHORITY
FOR THE PROPERTY KNOWN AS
1349 NEWFIELD AVENUE, STAMFORD, CONNECTICUT
FOR THE OPERATION OF THE STERLING FARMS GOLF COURSE**

WHEREAS, the Parks & Recreation Committee of the Board of Representatives met on January 23, 2007 to consider the above-captioned Lease; and

WHEREAS, the Parks & Recreation Committee of the Board of Representatives approved the lease with one amendment, as follows: amendment to Paragraph 2, second sentence to read (*new language in italic*): "Provided the Lessee is not in actual default of any of the terms and conditions of this Lease, Lessee may, at its sole option, extend the term of the Lease at the expiration of the Term for two (2) additional five (5) year terms that shall run consecutively (each hereinafter referred to as a "Renewal Period") under the same terms and conditions of this lease except for the rent, which shall be negotiated by the parties *and which shall be subject to the approval of the Board of Representatives* within six months prior to the commencement of the first renewal period." And

WHEREAS, said amendment and lease was approved at the February 5, 2007 Regular Board Meeting.

NOW THEREFORE BE IT RESOLVED BY THE 27TH BOARD OF REPRESENTATIVES THAT:

Pursuant to Section C1-50-3 of the Stamford Charter and Section 9-7 of the Stamford Code of Ordinances, the lease agreement ("Lease") between the City of Stamford ("Lessor") and the Stamford Golf Authority ("Lessee") for the property known as 1349 Newfield Avenue, Stamford, CT, for the operation of the Sterling Farms Golf Course in accordance with the terms and conditions set forth in the Lease, which is incorporated herein by reference, for the period commencing on execution and terminating on June 30, 2019, is hereby approved; and

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The Mayor is hereby authorized to execute Lease and to execute any instrument he deems necessary or desirable in connection with the execution of such Lease.

This Resolution shall be effective as of the date of approval.

This resolution was approved on the Consent Agenda at the regular monthly meeting of the 27th Board of Representatives held on Monday, February 5, 2007.



Valerie A. Pankosky
Administrative Assistant & Recording Secretary

cc: Mayor Dannel P. Malloy
Benjamin Barnes, Director of Operations
Sandy Dennies, Director of Administration
Thomas M. Cassone, Director of Legal Affairs
William Callion, Director of Public Safety, Health & Welfare
Donna Loglisci, City and Town Clerk
Sybil Richards, Deputy Corporation Counsel
Planning Board
Board of Finance

**LEASE AGREEMENT BY AND BETWEEN
THE CITY OF STAMFORD
AND
THE STAMFORD GOLF AUTHORITY**

THIS LEASE made this day of December, 2006, between the **City of Stamford**, a municipal corporation organized and existing under the laws of the State of Connecticut, acting herein by Dannel P. Malloy, its duly-authorized Mayor (hereinafter sometimes referred to as "Lessor") and the **Stamford Golf Authority**, a body politic organized and existing under the laws of the State of Connecticut acting herein by Patricia G. McGrath, its duly-authorized Chairperson (hereinafter referred to as "Lessee").

WITNESSETH

1. **Demised Premises.** The Lessor hereby leases and demises to the Lessee and the Lessee hereby hires and takes from the Lessor, the property located at 1349 Newfield Avenue, Stamford, Connecticut, which consists of a municipal golf course, known and operated as Sterling Farms Golf Course, and various buildings and facilities located thereon (hereinafter referred to as the "Demised Premises"), including, but not limited to, the Main House, Restaurant, Stamford Golf Authority Office, Golf Pro and Tennis Pro Shops, Cart Barn, Driving Range Building, Driving Range Tee Structure, Halfway House Snack Bar, Fertilizer Building, Maintenance Building, Chemical Building, Equipment Building, Pump House, Rest Rooms Building, and Superintendent Building.

Notwithstanding the foregoing, this Lease shall be subject to the concurrent rights of Curtain Call Inc. that are contained in a certain Management Agreement between the

Lessor and Curtain Call Inc. dated (insert date), which is incorporated herein by reference, and any subsequent amendments or renewals thereto so long as any such agreement, amendment(s) or renewal(s) do not materially interfere with Lessee's intended use and operation of the Demised Premises as a golf course and tennis facility, and its rights hereunder. It is expressly agreed by the parties hereto that the description of the Demised Premises excludes the following buildings and facilities (which are collectively referred to herein as the "Ethel Kweskin Buildings") that are located on the site of the Demised Premises: Youth Center (also known as the "Studio Building"), Ethel Kweskin Barn Theatre and its executive offices (also known as the "Administrative Building") and the Storage Barn.

2. **Term.** The term of this Lease shall commence on the date this Lease is executed by Lessor and terminate on June 30, 2019, unless sooner terminated as hereinafter provided (hereinafter referred to as the "Term"). Provided the Lessee is not in actual default of any of the terms and conditions of this Lease, Lessee may, at its sole option, extend the term of the Lease at the expiration of the Term for two (2) additional five (5) year terms that shall run consecutively (each hereinafter referred to as a "Renewal Period") under the same terms and conditions of this Lease except for the rent, which shall be negotiated by the parties ^{and which shall be subject to the approval of the} within six (6) months prior to the commencement of the ^{Board of} first Renewal Period. Lessee shall exercise its renewal option by giving Lessor written ^{Representatives} notice to the Lessor's Director of Operations at least six (6) months prior to the end of the Term or the first Renewal Period, as the case may be. If Lessee fails to give such notice, then this Lease shall automatically terminate at the end of the Term or the first Renewal Period, as the case may be.

3. **Rent.** The annual rent for the Demised Premises during the Term shall be in the amount of eleven percent (11%) of the annual gross revenue received, generated, collected or otherwise obtained by the Lessee from all sources, excepting therefrom any revenue received by Lessee from Lessor. Further, the annual rent shall be by checks made payable to the order of "Treasurer, City of Stamford" and shall be payable in four (4) installments, each equal to twenty-five (25%) percent of the total of the Lessee's annual gross revenue that the Lessee received in the prior calendar year, on every May 1st, July 1st, September 1st and November 1st of each year. Any rent adjustment payable to the Lessor, in case of an underpayment, or returnable to the Lessee, in case of an overpayment, based on the actual annual gross revenue received by Lessee for such calendar year in which the rent is paid, shall be made on May 31st of the ensuing calendar year. Said gross revenue shall be subject to the Lessor's audit and review at the Lessor's sole option and expense; provided, however, such audit must be completed by the end of such ensuing calendar year.

4. **Use.** The Lessee shall utilize the Demised Premises exclusively as a recreational and golf facility in accordance with Section 7-130a, et seq. of the Connecticut General Statutes and Chapter 6, Article 1 of the City of Stamford Code of Ordinances, as they may be amended from time to time, and for no other purposes whatsoever. Said facility shall be known as the "Sterling Farms Golf Course" during the term of this Lease. The Lessee agrees that it shall be responsible for the administration and supervision of any programs or activities ("Programs") conducted at the Demised Premises at its sole cost and expense. At its sole cost and expense, the Lessee shall install and maintain signage at the entrance that expressly provides that Sterling Farms Golf Course is a municipal golf

course and such signage, including, but not limited to, the sign, style, design, wording and location of the same, shall be approved in advance by the Lessor prior to its erection, which approval shall not be unreasonable withheld or delayed.

No use shall be permitted on the Demised Premises wherein any pecuniary benefit accrues to any officer, director, or trustee of the Lessee; excepting, however, Lessee's Executive Director, an employee of Lessee.

5. **Approval.** This Lease is subject to the prior approval of the Lessor's Planning Board, Board of Finance, Board of Representatives and Mayor. Upon such approval, the current lease by and between the parties hereto dated January 20, 2000, and in full force and effect, shall cease and terminate as if it had expired by its terms and shall no longer be in effect.

6. **Assignment.** The Lessee shall not be permitted to assign this Lease or any interest therein, except with the prior written consent of Lessor, which consent shall not be unreasonably withheld or delayed, and except for rental income received by Lessee from any subtenants of the Demised Premises, including, but not limited to, the restaurants, golf professional and tennis facilities, solely as collateral security for any bank or bond financing.

7. **Subletting.** Except with respect to the restaurants, golf pro shop and tennis facility subleases and/or licenses currently in effect, Lessee shall not sublease, permit, or license the Demised Premises or any part thereof unless:

- a. Such sublease, permit or license shall comport with the uses permitted by this Lease in the reasonable judgment of the Lessor; and
- b. Such sublease, permit or license shall be in writing and be pre-

approved by the Lessor which pre-approval shall not be unreasonably withheld or delayed; and

c. Such sublease, permit or license provides that the sub-lessee, permittee or licensee shall indemnify and hold the City of Stamford, its officers, agents and employees harmless from any and all liability arising from any such use of the Demised Premises; and

d. Such sublease, permit or license shall contain any and all insurance coverage(s) required by the Lessor's Risk Manager.

e. All cash, in kind or other compensation to be provided to the Lessee shall be specifically reflected in the books and records of Lessee.

8. **Quiet Enjoyment.** The Lessee, provided it is not in default hereunder, shall peaceably hold, occupy and enjoy the Demised Premises during the Term and, if applicable, Renewal Term, without hindrance, ejection or interference except as otherwise provided in this Lease or as permitted by law.

9. **Lessor's Covenants.** The Lessor covenants with the Lessee that it has good right to lease the Demised Premises to the Lessee on the terms and conditions provided in this Lease.

10. **Lessee's Covenants.** The Lessee agrees, warrants and represents that it shall commit no waste to the Demised Premises, nor suffer the same to be committed thereon, nor injure nor misuse the same; and further agrees, warrants and represents that the Lessee has neither the right nor the power to assign or hypothecate this Lease in any way whatsoever, except as otherwise provided in this Lease or to make un-approved alterations to the Demised Premises, except as otherwise provided herein, nor use the

same for any purposes except as those expressly authorized herein. The Lessee shall keep the Demised Premises in good condition, free of debris, in a safe and adequate condition for the uses and purposes hereby authorized. The Lessee shall deliver the Demised Premises up to Lessor upon the expiration or earlier termination of this Lease in reasonably good condition, normal wear and tear, and casualty or condemnation excepted, and the Lessee shall have no right or obligation to remove any improvements to the Demised Premises without the prior written consent of Lessor (except those necessitated by repairs). Likewise, any fixtures, equipment, furnishings, supplies or inventory which are purchased or obtained during the term of this Lease, by or for the Lessee utilizing any City operating or other revenue funds, including but not limited to, state and federal funds administered by the City, shall become the property of Lessor upon the expiration or sooner termination of this Lease in good condition, normal wear and tear excepted, at the option of Lessor.

11. **Default.** If Lessee should be in material breach or default of or violate any of the terms and conditions of this Lease and fail to cure such breach, default or violation within thirty (30) days or within a reasonable time if such breach, default or violation shall be incapable of being cured within such thirty (30) day period, after written notice of such breach, default or violation from the Lessor, or if the Lessee should assign or hypothecate this Lease or sublet the Demised Premises in a manner not provided by this Lease or otherwise dispose of the whole or any part of the Demised Premises or make any structural alterations therein without the prior written approval of the Lessor's Director of Operations, or shall commit waste or suffer the same to be committed on said Demised Premises or injure or misuse the same, or shall be adjudicated bankrupt, or shall make a

voluntary or involuntary assignment of its estate or effects for the benefit of creditors, or if a receiver of Lessee's property shall be appointed, or if this Lease shall by operation of law, devolve upon or pass to anyone other than the Lessee, then this Lease shall thereupon, by virtue of this express stipulation expire and terminate, at the sole option of the Lessor, and the Lessor may, at any time thereafter through legal process, re-enter said premises and shall have and possess all of the Lessor's former estate, and without such re-entry, may recover possession thereof in the manner prescribed by the statutes relating to summary process; it being understood that no demand for rent or re-entry for condition broken, as at common law, shall be necessary to enable the Lessor to recover such possession pursuant to said statutes relating to summary process, that any or all right to any such demand or any such re-entry is hereby expressly waived by Lessee.

12. **Compliance with Laws.** Lessee shall comply with all applicable and lawful federal, state and local laws, rules, regulations, ordinances, charters, statutes, codes, orders, policies and procedures including, but not limited to the City Purchasing Ordinance as a non-city entity in accordance with Code Section 8-4 *et seq.*, in relation to the use and occupancy of the Demised Premises and with respect to the operation of the Programs, and any costs for non-compliance or violation of same shall be solely the responsibility of the Lessee.

13. **Access to Premises.** Lessor and its employees, officers, agents and independent contractors shall have the right to enter and inspect the Demised Premises at any reasonable time during business hours after oral or written notice to the Lessee, or at any time in case of emergency, for the purpose of ascertaining the condition of the Demised Premises, curing a default on the part of the Lessee at the Lessee's sole cost and expense,

making major repairs and capital improvements not made by the Lessee pursuant to the terms and conditions of this Lease at the Lessee's sole cost and expenses; provided, however, nothing herein shall be deemed to obligate the Lessor to make any such repairs or improvements, except as otherwise provided herein. Lessor's Director of Operations shall have a copy of the most current key(s) along with any access and security codes to the Demised Premises for the purposes set forth in this paragraph.

14. **Capital Improvements, Repairs, Maintenance and Utilities.** Lessee shall be responsible for all major and minor repairs to and the maintenance of the Demised Premises, all utilities and systems including, but not limited to, the following: plumbing, electrical, boiler, furnace, generator, heat, water, air conditioning and all other systems.

Lessee shall also be responsible for the following:

- a. Interior and exterior walls and glass, including mirrors.
- b. Snow and ice removal, refuse collection, water, sewer use, electricity, heat, air conditioning, fuel oil, gas and other utilities.
- c. Custodial services, grounds keeping, landscaping, janitorial supplies, security and service agreements.
- d. Repaving and resurfacing the parking lots, walkways and steps inclusive of the lots, walkways and steps leading to the Ethel Kveskin Buildings.
- e. Boiler repair and replacement, if needed.
- f. Removal of dead and/or damaged trees, and general landscaping.
- g. Altering or changing the topography of the golf course.
- h. General repair and maintenance of the golf course.

- i. Any and all other expenses for the operation of the Lessor's programs and activities, if applicable, including but not limited to supplies, equipment, furnishings, insurance, telephones, etc.

Notwithstanding the foregoing, Lessee shall be responsible for all minor repairs to the Ethel Kweskin Buildings in an amount that shall not to exceed \$7,500.00 per calendar year during the Term of this Lease.

Lessee may, at its sole cost and expense, make capital improvements to the Demised Premises. Any and all capital improvements and major repairs to the Demised Premises costing in excess of \$50,000.00, shall be subject to the prior written approval of the Lessor's Director of Operations and shall be performed in accordance with paragraph 12 above; provided, however, unless Lessee shall receive a written notice of disapproval from Lessor's Director of Operations within thirty (30) days after Lessee furnishes a written request for approval, it shall be deemed that such approval was granted by such Director of Operations.

It is hereby agreed and understood by the parties that the Lessor shall have the right and power to make any and all capital improvements at its sole cost and expense, without having any obligation to make such improvements; provided such improvements do not unreasonably interfere with the Lessee's use of the Demised Premises. It is further agreed and understood by the parties that the Lessor has the right and power, at its sole cost and expense, to install a radio tower and control building on the Demised Premises in accordance with the Plan attached hereto as Schedule A (the "Work"), which location is tentatively depicted on Schedule B, which is attached hereto and made a part hereof, in addition to a rotational camera, which shall be erected on the radio tower and/or control

building (collectively referred to as the "Improvements") on the Demised Premises, that the location of Improvements shall be solely determined by the Lessor although such location is tentatively depicted on said Schedule B; provided such Improvements do not unreasonably interfere with the Lessee's use, or the topography, of the Demised Premises. Lessor shall provide prior written notice to Lessee of any substantial or material change in the location of the Improvements and/or where the Work is to be performed, which change shall be subject to the prior approval of Lessee. For purposes hereof, the terms "substantial" or "material" shall mean a change in the area where the Project is to be located of fifteen (15) feet or greater in any direction.

It is understood and agreed to by the parties that any and all fees and costs related to the Improvements shall be at no expense to Lessee and shall be paid for solely by Lessor from the Lessor's Radio System Replacement Upgrade Capital Project Account No. C66299 Appropriation. Notwithstanding anything contained in this Lease to the contrary, Lessor acknowledges and confirms that the cost and expense of the Improvements and the Plan to be conducted by Lessor to the Demised Premises have been approved and appropriated by Lessor.

The Lessor shall have unrestricted access to and from the Improvements irrespective of any other provision in this Lease to the contrary and has exclusive right to relocate, repair, maintain, improve and remove the Improvements during the Term of this Lease at its sole cost and expense; provided, however, Lessor, in doing so, shall not unreasonably interfere with the Lessee's use, or the topography, of the Demised Premises and shall repair or replace any portion of the Demised Premises resulting from Lessor's relocation, repair, maintenance, improvement or removal of the Improvements, as

necessary, at Lessor's sole cost and expense. Lessor's installation and operation of the Improvements shall be solely for its own use and not for any commercial usage or other purpose.

Within a reasonable period of time following the installation of the Improvements, not to exceed sixty (60) days, the Lessor, at its sole cost and expense, shall completely pave the entire driveway, of a street grade road quality, and install outdoor lighting along such driveway, in accordance with the Plan attached hereto as Schedule C (the "Plan"). The parties agree and understand that the Lessor shall pave or cause the paving of the driveway on a one-time basis only, and bury underground all utilities, at Lessor's sole cost and expense, and that the Lessor shall have no further obligation to pave, repave, repair, maintain or replace such driveway during the Term of the Lease, unless as a result of the relocation, repair, maintenance, improvement or removal of the Improvements by Lessor, it shall be necessary to repave or repair any portion(s) of such driveway, reinstall any such outdoor lighting along such driveway, or rebury any utilities, which shall be done at Lessor's sole cost and expense.

Any and all photographic, digital or other images captured, recorded, stored or produced by the rotational camera are the exclusive property of the Lessor and the Lessor retains the right and power to post any and all notices concerning the Lessor's use and operation of the rotational camera on the Demised Premises and/or the Improvements, as the case may be, pursuant to federal, state and local laws, rules, regulations, orders, statutes, charters, ordinances, policies and procedures.

15. **Books and Records; Audits.** Lessee shall maintain complete and accurate books and records of its income and expenditures, assets and liabilities in relation to its use and

occupancy, maintenance and repair of the Demised Premises and its operation of the Programs. Such books and records shall include its operations and Programs, if applicable. Lessee shall provide Lessor open and regular access to all of its books and records, during normal business hours at the offices of Lessee upon the demand of Lessor. Lessee shall furnish Lessor with copies of annual certified independent audits prepared at the expense of the Lessee in accordance with Generally Accepted Auditing Standards by a Connecticut licensed CPA, no later than 180 days after the close of each fiscal or calendar year, as the case may be.

16. **Non-Appropriation.** Any obligation of Lessor to make payments or expenditures of any kind under this Lease shall be contingent upon the Lessor securing the requisite approvals and appropriations being duly passed pursuant to the laws of the City of Stamford.

17. **Insurance Requirements.** The Lessee shall affect and maintain for the life of this Lease, commercial general liability and automobile liability insurance as shall protect the Lessee and the City of Stamford from claims for damages arising out of personal injury, including death, and claims for property damage, which may be suffered as a result of operations/completed operations under this Lease, whether such operations/completed operations be by the Lessee or any employee or agent thereof. The Lessee shall also affect and maintain for the term of the Agreement workers' compensation insurance covering injuries or disease suffered by the Lessee's employees. The workers' compensation insurance shall comply with all workers' compensation statutes and regulations in the State of Connecticut. The Lessee shall also maintain all risk property which insures all real and personal property of the Lessee, and boiler and

machinery insurance, valued on a full replacement cost basis. The City's Risk Manager also reserves the right to require the Lessee to affect and maintain other insurance coverage under the Lease that is deemed reasonably appropriate or necessary.

The Lessee shall provide, at its own cost and expense, documentary proof of the following insurances to the Risk Manager of the City of Stamford:

- A. Workers' compensation – Statutory, which complies with the workers' compensation regulations and laws of the State of Connecticut.
- B. Employer's liability, with minimum limits of liability of \$100,000 for each accident, disease each employee and policy limit for disease.
- C. Commercial general liability, subject to a minimum limit of liability of \$2,000,000 combined single limit for bodily injury and property damage and \$5,000,000 in the aggregate. This insurance shall include, but not be limited to, bodily injury and property damage and the following coverages:
 1. Premises and operations liability.
 2. If applicable, products liability and completed operations, to be maintained for a period of not less than three years following termination or cancellation of this Lease.
 3. Broad form contractual liability covering any indemnities contained in this Lease.
 4. Personal injury and advertising liability.
- D. Automobile liability insurance, with a minimum limit of liability of \$1,000,000 combined single limit for bodily injury and property damage. This insurance shall include, but not be limited to, bodily injury and property damage for the following:

5. Owned vehicles
 6. Hired and leased vehicles
 7. Non-owned vehicles
- E. All risk property insurance, which covers all real and personal property by the Lessee from Lessor. The limits under the all risk property insurance shall be and a full replacement cost basis and shall be sufficient to prevent the Lessee from incurring a co-insurance penalty because of inadequate limits. The all risk property insurance shall designate the Lessor as loss payee for any losses covered under this insurance: Any damages or losses beneath the applicable deductible(s) shall be repaired by the Lessee to the full satisfaction of the Lessor.
- F. Boiler and machinery insurance, which covers all boilers, pressure-fired and non-pressured vessels, hot water heaters, gas-fired furnaces, electrical equipment and any other machinery and equipment, which is generally insured under a boiler and machinery policy. This insurance shall be on a full replacement cost basis and shall be sufficient to prevent the Lessee from incurring a co-insurance penalty because of inadequate limits.

The Lessee shall be responsible for repair and/or replacement of all damage and losses to the Demised Premises, whether insured or not insured; excepting, however, any loss or damage to the Improvements for which the repair and/or replacement thereof shall be Lessor's sole responsibility and at Lessor's sole cost and expense. All repairs and / or replacement of damage and losses will be completed as soon as practicable after discovery of the damage and losses by the Lessee and Lessor. All repairs and / or replacement of damage and/or losses to the Demised Premises must be approved by and

meet the satisfaction of the Lessor, which approval shall not be unreasonably withheld or delayed.

The City of Stamford and its employees, agents and officers shall be designated as additional insureds under the commercial general liability and automobile liability insurance policies.

Thirty (30) days prior written notice shall be provided to the City of Stamford's Risk Manager in the event of cancellation, termination or material change in any terms and conditions of any insurance policies required hereunder.

Any insurance required hereunder underwritten on a claims made, as opposed to an occurrence basis, shall contain a retroactive date not later than the date of execution of the Lease or commencement of the occupancy of the Demised Premises by the Lessee, whichever is earlier, and an extended reporting period endorsement of not less than three years following vacating of the Demised Premises or termination of the Lease, whichever is later.

All insurance coverage and certificates of insurance shall be approved by the City's Risk Manager prior to commencement of occupancy of the Demised Premises or execution of the Lease, which approval shall not be unreasonably withheld or delayed. Other insurance coverages may be reasonably required by the City, which are predicated upon specific needs.

The Lessee agrees to waive any right of recovery against the City of Stamford and its employees, agents and officers for any claim, loss or damage of any kind or description whatsoever, which may or may not be covered under insurance required under this Lease, except where caused by Lessor, or Lessor's employees, agents or officers, or

in connection with the Improvements. All such insurance required under the Lease shall contain waivers of subrogation endorsements in favor of the Lessor and its employees, agents and officers. In addition, all such insurance required hereunder shall be primary insurance, without any right of contribution from any insurance maintained by or on behalf of the Lessor and its employees, agents and officers.

If, at any time, any of the said insurance policies shall be or become reasonably unsatisfactory to the City as to form or substance, or if any insurance company shall become reasonably unsatisfactory to the City of Stamford, the Lessee shall promptly obtain a new insurance policy, submit same to the Risk Manager of the Lessor for approval and submit a certificate thereof as hereinabove required. Upon failure of the Lessee to furnish, deliver or maintain same, this Lease, at the election of the Lessor, after prior notice and failure to cure, may forthwith be declared terminated. Failure of the Lessee in the above shall not relieve Lessee from any and all liability under the Lease, nor shall the insurance requirements be construed to conflict with the obligations of the Lessee concerning its liability or indemnification obligations under the Lease.

The Lessee shall provide the Lessor with certificates of insurance or original copies of the insurance policies, whichever the Risk Manager for the Lessor requires, which contain all requirements in the insurance provision for the Lease.

18. **Non-Waiver.** The failure of the Lessor to insist upon strict performance of any of the terms, conditions or covenants herein shall not be deemed a waiver of any rights or remedies that the Lessor may have; and shall not be deemed a waiver of any subsequent breach or default of the terms, conditions or covenants herein contained, the Lessor reserving the right to require strict compliance therewith at any time, with or without

notice except as may be otherwise required herein.

19. **Condition of Demised Premises.** No agreements, promises, covenants, warranties or representations have been made by the Lessor as to the condition of said Demised Premises upon which the Lessee has relied in entering into this Lease, and Lessee agrees to take the Demised Premises "As-Is" in its present and existing condition.

20. **Indemnification.** Lessor shall not be liable for any injury or damage to person or property happening in and or on the Demised Premises, parking lot, sidewalks, grounds, golf course, interior or exterior or any part of said premises by reason of any existing or future condition, defect, matter or thing, except where such injury or damage to person or property is caused by, relates to or arises out of the Lessor's or Lessor's employees', agents' or officers' willful misconduct, gross negligence or negligent acts or omissions, or in connection with the Improvements, and Lessee agrees to indemnify and hold harmless the Lessor (except if caused by Lessor's or Lessor's employees', agents' or officers' negligent acts or omissions) from any and all fines, claims, suits, actions, judgments, damages or liability arising therefrom and from anything otherwise arising from or out of the Lessee's use and occupancy of said premises or the Lessee's operation of the Programs or Lessee's willful and/or negligent acts or omissions. Lessor shall not be responsible for the loss of or damage to property, or injury to persons occurring in and or on the Demised Premises or for the acts, omissions or negligence of other persons or Lessee, its employees, officers and agents, in and or on said premises, except where such loss, damage or injury to person or property is caused by, relates to or arises out of the Lessor's or Lessor's employees', agents' or officers' negligent acts or omissions or the Lessor's installation, construction repair, maintenance or removal of the Improvements,

and Lessor agrees to indemnify and save Lessee harmless from all fines, claims, suits, actions, judgments, damages or liability for loss of or damage to property or injuries to persons occurring in and or on the Demised Premises by reason of any such acts or omissions. Lessee further agrees to indemnify and save harmless Lessor of and from any and all fines, claims, suits, actions, judgments, damages or liability and acts of any kind by reason of any breach, violation, or non-performance of any covenant or condition hereof or for the violation of any law, statute, regulation or order, on the part of Lessee, its agents, employees or officers.

21. **Mechanic's Liens.** Lessee shall not permit any mechanic's or other lien or charge to be filed against the Demised Premises by reason of any act of Lessee. If any such mechanic's or other lien or charge shall at any time be filed against the Demised Premises, Lessee shall immediately cause the same to be discharged of record, in default of which Lessor may, on thirty (30) days written notice to Lessee, discharge the same, and all reasonable costs and expenses, including reasonable attorney's fees, incurred by Lessor in procuring such discharge shall be payable by Lessee to Lessor as additional rent upon demand.

22. **Golf Permit Revenues.** The Lessor and Lessee hereby agree that the cumulative total of all of Lessor's revenue generated from both Lessee's sale and E. Gaynor Brennan Golf Commission's sale of City of Stamford golf permits shall be divided and distributed by Lessor between the Lessee and E. Gaynor Brennan Golf Commission commencing on the date this Lease is approved by the Stamford Board of Representatives as follows: fifty-eight (58%) percent of all revenue collected shall be distributed by the Lessor to the Lessee and the remaining forty-two (42%) of said revenue so collected shall be

distributed by the Lessor to E. Gaynor Brennan Golf Commission, within thirty (30) days of the Lessor's reconciliation of the total of Lessor's revenue generated, which reconciliation shall be conducted on a monthly basis by Lessor, Lessee and E. Gaynor Brennan Golf Commission.

22. **Notices.** All notices and demands, legal or otherwise, incidental to this Lease, or the occupation of the Demised Premises, shall be in writing. If the Lessor or its agents desires to give or serve upon the Lessee any notice or demand, it shall be sufficient to send a copy thereof by certified or registered mail, postage prepaid, addressed to the Lessee at the Demised Premises. All such notices to the Lessor from the Lessee shall be sent by registered or certified mail, postage prepaid, to the Director of Operations, City of Stamford, 888 Washington Boulevard, Stamford, Connecticut, 06901, with a copy to the Director of Legal Affairs at said address.

23. **Holdovers.** In the event that the Lessee shall remain in the Demised Premises after the expiration of the term of the Lease without having executed a new written lease with the Lessor, such holding over shall not constitute a renewal or extension of this Lease. The Lessor may, at its option, elect to treat the Lessee as one who has not vacated the Demised Premises at the end of its term, and thereupon be entitled to all the remedies against Lessee provided by law in that situation, or the Lessor may elect to construe such holding over as a tenancy from month to month, subject to all the terms and conditions of this Lease, except as to duration.

24. **Eminent Domain.** In the event the whole or any part of the Demised Premises shall be taken under any power of eminent domain or condemnation, the Lessee hereby waives any claim to compensation except, in case of a taking by the State or Federal

Government or other political subdivision thereof other than the Lessor, Lessee may apply for such Lessee's award as which shall in no way affect the value or amount of Lessor's award.

25. **Entire Agreement.** This Lease contains the entire agreement between the parties and all representations relating to this tenancy or to the Demised Premises are included herein, and any and all prior leases, inclusive of the lease between the parties dated January 20, 2000, with respect to the Demised Premises, understandings and other agreements between the parties are replaced and superseded by this Lease with the exception of the Improvements and other work to be performed by Lessor pursuant to the Plan as provided in Section 14 of this Lease, about which the parties hereto have also entered into a 90 day License Agreement dated December , 2006. Any modifications and/or amendments to this Lease shall be in writing and signed by the parties hereto.

26. **Governing Law.** This Lease shall be construed in accordance with the laws of the State of Connecticut.

27. **Successors and Assigns.** This Lease shall be binding upon the parties, their respective successors and assigns, trustees and legal representatives.

[SIGNATURES APPEAR ON NEXT PAGE]

IN WITNESS WHEREOF, the parties have executed this Lease on the date and year first above written.

[Handwritten Signature]
[Handwritten Signature]

CITY OF STAMFORD

By _____
Mayor Dannel P. Malloy
Duly-authorized

STAMFORD GOLF AUTHORITY

By *[Handwritten Signature]*
Patricia G. McGrath
Its Duly-authorized Chairperson

Approved as to form:

Sybil V. Richards
Deputy Corporation Counsel

Approved as to insurance:

Ann Marie Mones
Risk Manager