

2016 NIRSA NATIONAL SOCCER CHAMPIONSHIPS

Letter of Agreement

This Agreement, made and entered into this ____ day of _____, 2016 by and between the NIRSA Services Corporation, a wholly owned subsidiary of the National Intramural-Recreational Sports Association an Oregon 501 (c) (3) corporation with its principal place of business at 4185 SW Research Way, Corvallis, OR 97333-1067 ("NIRSA"), and the Foley Sports Tourism ("Foley"), City of Foley, 407 East Laurel Avenue, Foley, Alabama 36535.

WHEREAS, The Foley Sports Tourism represents the City of Foley, Alabama; and

WHEREAS, Foley has soccer fields at the Foley Sports Tourism Complex for purpose of tournament; and

WHEREAS, NIRSA desires to use the Foley Sports Tourism Complex; and

WHEREAS, Foley desires to permit and host such use at the Foley Sports Tourism Complex

NOW THEREFORE, in consideration of the premises and for other good and valuable consideration the receipt of which is hereby acknowledged, it is agreed as follows:

A. TERM This Agreement shall encompass one tournament ("Event") November 16 - 20, 2016

B. OBLIGATIONS OF Foley

1. Foley agrees to make the Foley Sports Tourism Complex ("Complex") available, as set forth herein, for the Event.
2. Foley shall provide a minimum of sixteen (16) lighted soccer fields (at least 110' X 70') to be available for play as follows at no cost to NIRSA:
 - a. Sixteen (16) lighted soccer fields from 6 a.m. to 11 p.m. on November 16-20, 2016 for competition and practice.
 - b. Use of locker rooms, coaches rooms, hospitality rooms and other amenities and buildings at Complex.
 - c. In case of rain or inclement weather, the schedule will be adjusted to include possible earlier starting times and extra day of play. There will be no charge for the lighted fields if needed to complete play for the day.
3. Foley agrees to provide, or cause to be provided, at Foley Sports Tourism Complex at no cost to NIRSA:
 - a. Foley will provide staff to maintain the condition and cleanliness of the fields and facility throughout the tournament;
 - b. Adequate bathroom, which provide privacy for players;
 - c. Fire, safety and first aid facilities and equipment sufficient to meet applicable codes, regulations and laws;
 - d. Provide seven (7) certified athletic trainers on site during the event;

- e. Provide at least one (1) off-duty police officer for security on site for the duration of the event;
 - f. Provide Fire and Rescue or Med-star service on-site during the event;
 - g. Room within the field house or 20 X 20 tent for official's & staff hospitality, set for up to 100 people;
 - h. Up to thirty-six (36) two-way radios for staff for duration of the tournament;
 - i. Eleven (11) golf carts or utility vehicles for staff, officials, athletic trainers and security;
 - j. Team benches and water coolers on all fields used for the tournament;
 - k. Adequate parking without charge for players, and officials;
 - l. High speed Wi-Fi access for tournament staff;
 - m. Access to PA system in the Championship Venue on Saturday, November 19, 2016.
 - n. Portable PA system for use on the fields;
 - o. Provide securable storage of such a size as to accommodate approximately 1 pallet of supplies for duration of each Tournament Event;
 - p. Provide the Complex Emergency Action Plan to NIRSA at least 10 days prior to the start of the event;
 - q. Allow NIRSA Staff to hang/install sponsor banners and public advertising devices by 10 a.m. the day prior to the first day of play. Mutually acceptable number of banners/advertising devices and location to be determined between Commission and Organizer;
 - r. Provide three (3) laser printers compatible with apple and dell computers to be used the week of the event;
 - s. Provide all hospitality to tournament staff and officials – up to 110 people. Includes:
 - Dinner for staff at the condos on Nov. 16
 - Breakfast at the condo for staff on Nov. 17, 18, 19, 20
 - Lunch for staff and officials at Complex on Nov. 17, 18, 19
 - Dinner for staff and officials at Complex on Nov. 17, 18
 - Late afternoon snack at complex on Nov. 19
 - Dinner at hotel for officials on Nov. 19
 - Dinner at condos for staff on Nov. 19
5. Foley shall be responsible for acquiring any local or state permits for concessions sales and retain 100% of the revenue from concessions to participants.
6. Foley shall secure a block of rooms be held for the tournament officials to include: 1 complimentary presidential suite (November 14 – November 20); 3 complimentary rooms for duration (November 16 – 20); 25 double rooms at \$80 or less + tax a night; 5 king rooms at \$80 or less + tax a night (November 16 – 20).

- a. Meeting room space for Officials Meetings: 7 pm over at 10 pm
Theater style seating for at least 70 (on Wednesday evening 11/16/16 & 11/19/16) at no charge to the organizer.
 - b. Provide food during the meeting on Wed., Nov. 16 for up to 70 officials.
7. Foley will provide lodging at Wolf Bay Landing Condominium, up to eight (8) 2 and 3 bedroom units for staff for the week of the event (Nov. 14 – 20).
8. Foley will give NIRSA up to a \$3,000 sponsorship if NIRSA is unable to get commission or rebate from Foley hotels used by participants and spectators.
9. Foley will provide a site visit for two after the Complex is completed (One flight and lodging for two).
10. In the event that 16 fields to be provided by Foley to NIRSA pursuant to Paragraph B.2., above, are not complete, fully functional, and ready for use by NIRSA as contemplated by this Agreement on or before October 1, 2016, Foley agrees to pay NIRSA \$100,000, as liquidated damages, to compensate NIRSA for its anticipated loss in the event that the event must be cancelled or postponed. The parties agree it would be impractical and extremely difficult to ascertain the actual damages suffered by NIRSA as a result of Foley's failure to complete the fields and facilities as described above and that under the circumstances of this Agreement, the payment of \$100,000 represents a reasonable estimate of the damages which NIRSA will incur as a result of such failure; provided, however, that nothing contained herein shall in any manner limit the amount of damages obtainable pursuant to an action under any hold harmless, defense and indemnification provisions or any other obligations of a party under this Agreement, or attorney fees recoverable pursuant to this Agreement. The parties acknowledge that the payment of liquidated damages is not intended as a forfeiture or penalty within the meaning of any statute or law, but is intended to constitute liquidated damages to NIRSA.
Foley agrees to provide suitable facility to run event in case Foley Sports Tourism Complex buildings are not completed.
11. Foley will have the option to provide the following services for the event:
 - a. Information table in the playing area for attendees to get attraction and restaurant information while in Foley;
 - b. Solicit area restaurants and business to put together a discount program for the attendees;

C. OBLIGATIONS OF NIRSA

NIRSA shall do all that is necessary to develop, promote, stage and conduct the event, except for those duties which Foley has responsibility under this agreement. NIRSA duties include:

1. Provide all Tournament Directors, Referees and other site officials and tournament staff for the event and fund their expenses;
2. Provide the soccer balls for the event;
3. Provide packets for each participating team with all information regarding the event, to include City of Foley information (to be supplied by Foley);
4. Collect and retain 100% of entry fees from participating teams;
5. Provide Foley 3 full page ads in the tournament program.
6. NIRSA will market to participants and spectators only Foley, AL hotels approved by Foley.
7. Retains the right to sell tournament merchandise on site.

D. MISCELLANEOUS:

1. Entire Agreement. This Agreement represents the entire agreement of the parties with respect to its subject matter. This Agreement shall be construed and interpreted according to its plain meaning, and no presumption shall be deemed to apply in favor of or against the party drafting the Agreement.
2. Force Majeure. A party shall be excused from performing any obligation or undertaking provided for in this Agreement in the event and/or so long as the performance of such obligation is substantially prevented or delayed, retarded or hindered by act of God, fire, earthquake, tornado, hurricane, flood, explosion, interruption, cessation, termination, action of the elements, war, invasion, insurrection, riot, mob violence, sabotage, inability to procure or general shortage of labor, equipment, facilities, materials or supplies in the open market, failure of transportation, strike, lockout, action of labor unions, condemnation, requisition, law order of government or civil or military or naval authorities, or any other cause, whether similar or dissimilar to the foregoing, not within the reasonable control of such party. For purposes of NIRSA's obligations to conduct the event contemplated by this Agreement, "substantially prevented or delay, retarded or hindered" in this paragraph means that 20% or more of NIRSA's attendees or participants are unable to travel to Foley or to participate in the event.
3. Termination and Default.
 - a. Default. The following events and occurrences shall constitute a default under this Agreement:

- The failure of either party to pay the other party any sums due within 30 days of the date such payment is due;
 - Actions by either party reasonably determined by the other party to endanger the reputation and/or purposes of the other party;
 - Any breach of a party's obligations under this Agreement which the defaulting party does not fully cure within thirty (30) days of receipt of written notice thereof;
 - Any misrepresentation made by a party in the negotiation of this Agreement; or
 - A party: (i) becomes insolvent; (ii) voluntarily seeks, consents to or acquiesces in the benefit or benefits of any Debtor Relief Law (as hereinafter defined); or (iii) becomes party to, or is made the subject of, any proceeding provided by Debtor Relief Law, other than as a creditor or claimant unless in the event such proceeding is involuntary the petition instituting the same is dismissed within thirty (30) days of this filing. As used herein, Debtor Relief Law means the Bankruptcy Code of the United States of America and all other applicable liquidation, conservatorship, bankruptcy, moratorium, rearrangement, receivership, insolvency, reorganization or similar relief laws from time to time in effect affecting the rights of creditors generally.
- b. Termination for Default. In the event of a default as set forth in Paragraph 3(a) above, the non-defaulting party shall have the right to terminate this Agreement. Such termination shall be effective five (5) business days following receipt of such written notice by the defaulting party. Notwithstanding termination of this Agreement for default, the party not in default shall be entitled to maintain an action for damages for breach of contract. Subject to the terms of this Agreement, the parties shall have available to them all remedies at law or equity for breach or threatened breach of contract, including the remedy of specific enforcement.
- c. Survival of Obligations. No termination of this Agreement shall in any way affect the continuing obligations of the parties pursuant to this Agreement, which obligations survive the termination of this Agreement.
4. Insurance. At all times during the term of this Agreement and /or any renewal terms(s), NIRSA and Foley shall obtain and maintain insurance coverage as follows:

- a. Policy or policies of general liability insurance including products, completed operations and bodily injury and personal property liability must be obtained with a limit of One Million Dollars per occurrence and Two Million Dollars (\$2,000,000.00) aggregate;
- b. NIRSA shall provide a certificate of insurance issued not later than ten days prior to the start of each Tournament Event. The certificate of insurance shall name the City of Foley, Foley Sports Tourism Complex, as an additional insured on all policies. Foley shall also name NIRSA as an additional insured under its policy of insurance required by this Agreement.

5. Indemnity.

- a. To the fullest extent permitted by law, each Foley and NIRSA shall indemnify each other and their respective directors, officers, and employees and shall hold them harmless from and against all loss, liability, damage, cost or expense (including without limitation reasonable attorneys' fees and expenses) that may be imposed upon or incurred by Foley or NIRSA (or by Foley's or NIRSA's directors, officers or employees) in connection with any claim, demand, suit or proceeding by an unrelated third party and arising out of any negligent or intentional act or omission by NIRSA or Foley or their respective agents, sublicenses, partners, joint ventures.

6. Compliance With Laws NIRSA and Foley shall comply with all federal, state, and local laws, ordinances and regulations (including environmental laws and regulations) relative to use of the facility and the activities that take place there.

7. Amendments The provisions of this Agreement may not be amended, supplemented, waived, or changed orally, but only by written addendum signed by both parties.

8. Governing Law This Agreement and all transactions contemplated by this Agreement, shall be governed by, construed, and enforced in accordance with the laws of the State of Oregon without regard to principles of conflicts of laws. The parties consent to the jurisdiction and venue of the court of Portland, Oregon.

9. Full Authority Each of the parties and signatories to this Agreement represents and warrants that each has the full right, power, legal capacity and authority to enter into and perform the parties' respective obligations hereunder and no approval or consents of any other person are necessary in connection therewith.

10. Notice As the terms "notice" or "notices" are used herein as between the parties, such term shall mean a written document, explaining the reason for the

notice, and the same shall be mailed by United States Postal Service via certified mail, return receipt requested, or by courier, Federal Express, Express Mail, or similar reputable service which shall obtain signature of receipt, and addressed to the party's last known address. Such notice shall be deemed to have been given on the date placed in the U.S. Mail or into the hands of a courier (described above), whether actually received by the addressee or not. The parties shall, as a matter of convenience and courtesy, send each party receiving notice a copy of said notice by facsimile or electronic means, but such notifications shall not be deemed lawful "notice" as required hereby. The parties shall furnish to the other party any change of address by written notice.

11. Attorney Fees If a suit, action, or other proceeding of any nature whatsoever, including without limitation any proceeding under the U.S. Bankruptcy code, is instituted, or the services of an attorney are retained, to interpret or enforce any provision of this Agreement or with respect to any dispute relating to this Agreement, each party shall bare its own costs, including but not limited to attorney fees, paralegal fees, accountant fees, and other expert fees, and all other fees, costs and expenses actually incurred and reasonably necessary in connection therewith.
12. Rights and Remedies. No provision of this Agreement shall be construed, expressly or by implication, as waiver by the Commission of any existing or future right and/or remedy available by law in the event of any claim of default or breach of this Agreement.

IN WITNESS WHEREOF, the parties hereto have cause these presents to be executed and dated the day and year first written above.

"NIRSA"

NIRSA Services Corporation
4185 SW Research Way
Corvallis, Oregon 97333

PamWatts, Executive Director
Secretary, NSC

Date: _____

"FOLEY"

Foley Sports Tourism
407 East Laurel Avenue
Foley, AL 36535

Don Staley, Executive Director of Sports

Date: _____