**TERMS AND CONDITIONS**

**By signing this document or by using the Facility, you agree to be legally bound by these Terms and Conditions.**

1. This Contract is non-exclusive and non-transferable by sale, exchange, assignment or otherwise.

2. If the Contract Holder decides to cancel this Contract, then written notice must be received by the Recreation, Community and Culture Department 15 calendar days in advance of the first cancelled date.

3. All bookings made within 15 calendar days of the event are final, non-refundable, and non-transferable.

4. The City may cancel or terminate this Contract at any time (including while the Facility is being used by the Contract Holder) and for any reason whatsoever. Cancellation or termination is effective immediately upon notice to the Contract Holder of a designate either verbally or in writing. The City will not be liable for any damages or losses suffered by the contract Holder or others for such cancellation or termination.

5. All Contracts must be paid for in advance or according to a payment schedule. Damage deposits may be required. Accounts must be in good standing in order to receive any required permits, approvals, or services. "Good standing" includes, but is not limited to, timely payments of all outstanding balances, compliance with Contract terms and conditions, and resolution of any prior disputes or violations.

6. Requests for amendments to this Contract must be submitted in writing and will be subject to administrative fees.

7. Declined credit card payments and cheques that are returned as "non-sufficient funds" (NSF) will be subject to administrative fees.

8. If the Contract Holder has agreed to automated recurring payments by credit card or EFT, the Contract Holder acknowledges that the scheduled payment amount may vary to reflect any additions or deletions to the Contract.

9. As a condition of rental, the Contract Holder agrees to retain a valid credit card on their Xplor Recreation/Live & Play account. By doing so, the Contract Holder expressly authorizes the City of Burlington to charge the credit card on file for any of the following, as determined by the City of Burlington in its sole discretion: Excessive cleaning fees required to return the facility to its original condition, repair or replacement costs for any damages to the premises, furnishings, equipment, or other property caused during the rental period, unapproved use of space or time extensions beyond the terms of the rental Contract. Prior to any charges being applied, the Contract Holder will be notified in writing of the nature and amount of the charge. Documentation (e.g., photos, cleaning reports, invoices) will be provided upon request. Failure to provide a valid credit card may result in cancellation of the booking or forfeiture of the rental and the termination of this Contract.

**Use of and Access to Facility**

10. The Contract Holder shall use the Facility only on the Date(s) and during the Time(s) specified on the Contract. Set-up and take-down times must be within the Time(s) specified on the Contract. The Contract Holder or a designate (who must be 18 years of age or older) must be present on the Date(s) and during the Time(s) specified on the Contract:

    **Ice**: Ice surface cleaning, by Operations staff, will occur in the first or final 10 minutes of all contracts. Cleaning times are subject to change based on operational needs.

    **Gyms**: Transition of equipment set-up, by Operation staff, between sport groups, will occur in the first and last 5 minutes (10 minutes total) of all contracts.

    **Sport fields, Diamonds, Arenas (non-ice), Rooms and Picnics**: Contract holder's set up and take down times must be within the time(s) specified on the contract.

    **Passive Parks, Event Spaces and Open Space Areas**: Contract holder's set-up and take down times must be within the time(s) specified on the Contract. The Contract Holder must ensure public access and safety is managed. The Contract does not provide exclusive use of Passive Park areas and open spaces. Park

amenities are not included in the Contract. Sheltered areas and pavilions are not available for rent and remain open to the public on a first-come, first-served basis. Such spaces are intended for shared use, especially during inclement weather, and exclusive access is not guaranteed.

11. The Contract Holder shall use the Facility solely for the purposes and approved activities as outlined in this Contract, and for no other purpose. The Contract Holder shall not permit use of the Facility by any other person without the prior written approval of the Director of Recreation, Community and Culture or designate.

12. The Contract Holder accepts the Facility on an “as is, where is” basis and acknowledges that the City makes no representations or warranties regarding the condition or the suitability of the Facility for the Contract Holder’s intended purpose. The Contract Holder assumes full responsibility for any risks, known or unknown, associated with the use of the Facility. For greater clarity, the Contract Holder acknowledges and agrees that for the duration of the event, they are effectively the sole occupiers of the Facility and are responsible for the safety and security of its employees, volunteers, members, coaches, participants, guests, and invitees.

13. The Contract Holder and each of its agents, volunteers, members, and participants (collectively the "Contract Holder"), shall comply with the City's Public Conduct Policy, failing with the City may take appropriate action as it deems necessary in accordance with the Public Conduct Policy. In the event the Contract Holder is determined to have contravened the Public Conduct Policy, the City may impose restrictions upon the Contract Holder including, but not limited to, limiting or revoking the Contract Holder's access to and use of the Facility, and in the event of the exercise of this right by the City acting through any of the City's agents or by police, the Contract Holder waives any right to any and all claims for damages.

14. The Contract Holder shall not cause or allow any person to bring into any part of the Facility any visual or audio materials in or on any media that are of questionable taste in content or in method of presentation or that are or would be obscene, indecent, libelous, or unlawful.

15. The Contract Holder shall comply with the City's Municipal Alcohol Policy for City facilities (including parks and parking lots). The City may eject from the Facility any person who has in their possession an alcoholic beverage without proper licensing or any person who appears to be impaired, and in the event of the exercise of this right by the City acting through any of the City's agents or by police, the Contract Holder waives any right to and all claims for damages.

16. The Contract Holder shall not bring animals into municipal buildings where signs are erected prohibiting animals, provided that this prohibition shall not apply to persons reliant upon an aid dog, or to persons having obtained an exemption Permit or other written authorization from the Director of Recreation, Community and Culture or designate.

17. The Contract Holder shall: (a) comply with By-Law No. 31-2002 (being a by-law respecting smoking in public places) and By-Law No. 92-2013 (being a by-law prohibiting smoking of tobacco in city parks and recreation properties) as amended, by ensuring that the Facility is maintained as a non-smoking facility, unless otherwise posted; (b) keep the Facility in a neat, tidy, and clean manner and shall pick up litter, garbage or otherwise; (c) comply with the City's Zero Waste Policy by minimizing waste; and (d) comply with the City's policy regarding bottled water restrictions in City facilities.

18. The Contract Holder shall not: sell, distribute hand bills or circulars, promote any products or services, play live or recorded music, have gaming in, from or out of the Facility; all without the prior written approval of the Director of Recreation, Community and Culture or their designate and without proper licensing.

19. The Contract Holder shall not sell or distribute food for public consumption in, from or out of the Facility without confirmation of notification to the Region of Halton (Health Department).

20. The Contract Holder shall comply with By-Law No. 35-1976, as amended, which regulates public parks in the City of Burlington. Pyrotechnics, open flames or heat-producing devices—including but not limited to candles, sparklers (traditional or electric), lanterns (stationary or airborne), fire pits, torches, incense, and similar items as well as smoke bombs, chemically-based smoke machines,

confetti cannons using explosive charges, glitter, rice, sequins or similar material (including such items enclosed in balloons)—are strictly prohibited in all City facilities, including both parks and indoor buildings unless written approval is obtained from the Director of Recreation, Community and Culture or designate and the Burlington Fire Department, Chief Fire Official along with all required permits and insurance documentation. Only camping stoves or barbecues may be used at designated outdoor locations, and only with prior written approval from the City.

21. The Contract Holder shall comply with and shall ensure that any person attending its activity complies with all parking by-laws. Motorized vehicles are restricted to parking lots only unless otherwise approved by the Director of Recreation, Community and Culture or designate. When parking areas are provided, the Contract Holder and any person attending its activity shall use these designated parking areas.

22. The Contract Holder shall comply with the City of Burlington's Nuisance and Noise Control Bylaw No. 019-2003, as amended, in all indoor and outdoor City facilities, parks and event spaces. This includes restrictions on but is not limited to 1) noise-generating devices such as: amplified sound including music, microphones, speakers, and other electronic sound equipment; and 2) Air horns. The Contract Holder shall not emit or permit the emission of sound from any device that projects noise beyond the property line into any street or public place. Any exemptions from the foregoing shall be approved, in writing, in advance by the Director of Recreation, Community and Culture or designate.

23. The Contract Holder shall be responsible for adhering to the approved event site plan issued by the City. Any damage to turf or other City property resulting from the Contract Holder's failure to adhere to the agreed-upon site plan will be the sole responsibility of the Contract Holder and may result in charges to the Contract Holder for repair or restoration.

24. The Contract Holder shall not cause or allow any overloading of the floors, walls or any other part of the Facility or the bringing into any part of the Facility any goods, equipment or articles that by reason of their weight, use or size might damage or endanger the Facility or any part thereof.

25. The Contract Holder shall do nothing in, from or out of the Facility which will be or result in a nuisance.

26. The Contract Holder shall not make or erect any installations, alterations, modifications or additions in or to the Facility or any part thereof (including any wires, electrical appliances, plumbing fixtures, etc.) without the prior written approval of the Director of Recreation, Community and Culture or designate.

27. The Contract Holder shall be responsible for the evacuation of its employees, volunteers, members, coaches, participants, guests, and invitees. The Contract Holder shall, at all times, know the number of persons using the Facility. The Contract Holder shall adhere to room capacities which are posted at the Facility and shall ensure that emergency exits are free from obstructions at all times. The Contract Holder shall ensure that all of its employees, volunteers, members, coaches, participants, guests, and invitees are aware of and comply with these responsibilities and procedures.

28. The Contract Holder, upon the expiry or termination of this Contract or upon the request of the City, the Contract Holder shall remove from the Facility any and all privately-owned property and personal effects without delay unless prior arrangements have been made with the Director of Recreation, Community and Culture or designate. If such property has not been removed, then it will be deemed to have been abandoned, and the City may sell such property by auction or private sale and may retain the proceeds.

29. If the Contract Holder is affiliated with, associated with or a member of a governing body which is recognized by the City, then the Contract Holder will comply with all of the rules, regulations, policies, and directives of the governing body and will ensure that its directors, officers, employees, volunteers, members, coaches, participants, guests, and invitees comply with them as well while using the Facility on the Date(s) and during the Time(s) specified on the Contract. The City may cancel or terminate this Contract if the Contract Holder is no longer in good standing with that governing body.

30. The Contract Holder shall comply with and shall ensure that any person attending its activity complies with: (a) federal and provincial laws and regulations; (b) municipal by-laws, policies, and

procedures; (c) the fire plan for the Facility; (d) all rules and regulations promulgated by the City from time to time with respect to the Facility; and (e) any orders or directives of the Director of Director of Recreation, Community and Culture or designate. Copies of municipal by-laws, policies, procedures, fire plans, rules, and regulations may be viewed or obtained at the Recreation, Community and Culture Department or on the City's website (burlington.ca)

31. The Contract Holder shall comply with any terms and conditions of Halton District School Board or of Halton Catholic District School Board for the use of school facilities. In the event of a conflict between this Contract and the terms and conditions of HDSB or of HCDSB, this Contract will prevail over the terms and conditions of HDSB or of HCDSB to the extent of such conflict.

32. For all outdoor events, the Contract Holder is responsible for monitoring weather conditions and taking appropriate action to ensure the safety of participants and the protection of City property. This includes being prepared to respond to extreme weather such as high winds, heavy rainfall, lightning, extreme heat, and other hazardous environmental conditions. The City of Burlington reserves the right to suspend, delay, or cancel any outdoor event if, in its sole discretion, weather or environmental conditions present a clear and immediate threat to public safety or facility integrity. This may include, but is not limited to, extreme heat advisories, air quality alerts, flooding, or storm activity. In such case, the City shall notify the Contract Holder as soon as reasonably practicable. The City does not assume responsibility for monitoring weather conditions on behalf of the Contract Holder. It is the Contract Holder's responsibility to stay informed of forecasts, advisories, and alerts, and to act accordingly. Failure to respond appropriately to hazardous conditions may result in cancellation of future bookings or liability for damages. The City shall not be responsible for any costs, losses, damage or expenses incurred by the Contract Holder or any third party resulting from the cancellation or postponement of the event.

33. The City or its agents, during extreme weather conditions (as determined by the City), may enter, use and occupy the Facility in order to support the City's response plan. No claim for

compensation or reimbursement will be made by the Contract Holder by reason of inconvenience, interruption or disruption arising from such entrance, use or occupancy.

34. The City may access the Facility that is being used by the Contract Holder for planned or unplanned maintenance, repair or inspection and in the case of an emergency (as determined by the City). No claim for compensation or reimbursement will be made by the Contract Holder by reason of inconvenience, interruption or disruption arising from such access. If the Contract Holder is not present to permit entry into the Facility and entry is necessary in the case of an emergency (as determined by the City), then the City may enter the Facility without the City being liable to the Contract Holder.

**Indemnity and Insurance**

35. The Contract Holder shall indemnify and hold harmless each of the City and its elected officials, officers, employees, and agents from and against any and all claims, actions, demands, damages, losses, liabilities, and expenses arising out of or as a result of: (a) any breach, violation or non-performance of the terms and conditions on the part of the Permit Holder set out in this Permit; (b) any damage to City property occasioned by the use of the Facility by the Contract Holder or its employees, volunteers, members, coaches, participants, guests, and invitees; (c) any injury to, illness of or death of any person or any damage to property or other losses arising from or resulting from the use of the Facility by the Contract Holder or its employees, volunteers, members, coaches, participants, guests, and invitees; (d) any act or omission (including theft, malfeasance or negligence) on the part of the Contract Holder or its employees, volunteers, members, coaches, participants, guests, and invitees; or (e) any breach of any intellectual property rights arising from or resulting from the use of the Facility.

36. The Contract Holder agrees to use the Facility at its sole risk. The Contract Holder agrees that the City, regardless of negligence or alleged negligence on the part of the City, shall not be liable for and hereby releases, remises, and forever discharges each of the City and its elected officials, officers, employees, and agents from: (a) any and all claims, actions, causes of action, damages, demands for damages, and other liabilities for or related to: (i) any injury to,

illness of or death of the Contract Holder or its employees, volunteers, members, coaches, participants, guests, and invitees; and (ii) any loss or theft of or damage to any property however caused in or about the Facility owned by the Contract Holder or its employees, volunteers, members, coaches, participants, guests, and invitees; (b) any act or omission (including theft, malfeasance or negligence) on the part of any employee, agent or contractor employed or retained by the City from time to time to perform any maintenance or other work in or about the Facility; and (c) any indirect, special, consequential, and incidental damages.

37. The Contract Holder, for the Dates(s) and during the Time(s) specified on the Contract, at its expense, shall obtain and maintain in full force and effect general liability insurance covering the activities and occupancy as described in the Contract. The policy will be extended to include bodily injury and property damage, tenant's legal liability, medical payments and contractual liability to a limit of no less than $2 million or $5 million per occurrence depending on the type of activities involved under this Contract, as directed by the City in its sole discretion. The policy will include a cross liability and severability of interest clause and be endorsed to name The Corporation of the City of Burlington and any others (as determined by the City) as an additional insured.

38. The policy of insurance will: (a) be written with an insurer licensed to do business in Ontario; (b) be non-contributing with and will apply only as primary and not excess to any other insurance or self-insurance available to the City; and (c) contain an undertaking by the insurers to notify the City in writing not less than 30 calendar days of any change, termination or cancellation of coverage. Any deductible amounts will be borne by the Contract Holder.

39. No less than 30 calendar days prior to the commencement of the event, the Contract Holder shall provide proof of insurance unless otherwise approved by the Director of Recreation, Community and Culture or designate. Proof of insurance will be on a form of a Certificate of Insurance, which has been signed by an authorized representative of the insurer.

Additional or varying insurance coverage and/or higher limits may be required depending on the nature of the activities involved under this Contract.

## Other Terms and Conditions

40. Nothing in this Contract is intended to make either party an agent, legal representative, subsidiary, joint ventures, partner, fiduciary or employee of the other for any purpose. Neither party will make any express or implied agreements, guarantees or representations on behalf of the other. This Contract constitutes the entire agreement between the parties relating to the subject matter hereof and cancels and supersedes any prior understandings and agreements. There are no representations, warranties, terms, conditions, undertakings or collateral agreements, express, implied or statutory, between the parties other than as expressly set forth in this Contract. This Contract is governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. Time is of the essence of this Contract. If any provision of this Contract is held to be invalid, void or unenforceable, then the remaining provisions will nevertheless continue in full force and effect without being impaired or invalidated in any way. The waiver by the City of a breach of any provision of this Contract will not operate as a waiver of any other breach. No delay or failure of the City to exercise any right or remedy will operate as a waiver. In any dispute over the meaning, interpretation, validity or enforceability of this Contract, there will be no inference, presumption or conclusion drawn whatsoever against the City by virtue of that party having drafted this Contract.

**If you have any questions about this facility rental contract, please email rentals@burlington.ca or call 905-335-7738**

During extreme weather, check burlington.ca/facilityclosures for closure messages or call 905-335-7738.

Subscribe to Notices and Alerts at burlington.ca/subscribe to receive updates directly to your email.