

User Agreement for Dryland Training Facility

This contract (the "Agreement") is made and entered into this _____ day of _____, 20____, between the City of Coon Rapids, Minnesota (the "City"), and Haring & Walstrom, LLC, d/b/a Acceleration Northwest, (the "User"), (collectively, the "Parties").

WHEREAS, The User desires to provide dryland training specifically on a skating treadmill in a training room located at the Coon Rapids Ice Arena.

WHEREAS, The City desires to provide a training room to the User for dryland training on a skating treadmill.

NOW, THEREFORE, for and in consideration of the mutual promises set forth hereinafter and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Scope of Services. The City agrees to rent Training Room 2 exclusively to the User for a dryland training facility. Specifically, Training Room 2 will be used for a skating treadmill.

The city agrees to include Training Room 1 to User for plyometric training. User understands that the rental of Training Room 1 is not exclusive and User will need to accommodate other users in Training Room 1.

User agrees to comply with all federal, state and local laws and ordinances applicable to the services to be performed under this Agreement, including all safety standards. The User shall be solely and completely responsible for conditions of the dryland training site, including the safety of all persons and property during the performance of the services. The User represents and warrants that it has the requisite training, skills, and experience necessary to provide the services and is appropriately licensed by all applicable agencies and governmental entities.

The User will handle all scheduling of services.

User shall not perform any additional services without the express written permission of the City.

2. Training Room #2.
 - a. Design and Construction- User will maintain the constructed skating treadmill.
 - b. Improvements- User will have the right to make improvements or alterations to the skating treadmill at its sole cost and expense, provided that any such improvements shall be of good workmanship and material. However, no modifications shall be made to the room without the approval of the ice center manager.

- c. Maintenance- User will be responsible for the general upkeep and regular cleaning of the room.
 - d. Removal- Upon the end of the agreement, User will remove the skating treadmill and restore Training Room #2 to its original state.
3. Access and Use.
- a. Training Room #2 will be used exclusively by User for use in providing dryland training on a skating treadmill and shall be staffed by Users employees or agents hired by User.
 - b. Training Room #1 will be used non-exclusively by User for providing plyometric training to private groups. User is responsible for the general cleaning of Training Room #1 whenever they utilize it.
 - c. User will have access to the building during normal business hours unless otherwise arranged with the Ice Center Manager. User will have a key to Training Room #2.
 - d. The City retains the right to enter Training Room #2 at any time for any reason.
4. Compensation.
- a. User will pay the City an annual fee of \$6,000.00 for the use of Training Rooms #1 and #2, in equal monthly payments of \$500.00 due the 15th of the prior month. The first payment will be due on July 15, 2015, and due on the 15th of the month each and every month thereafter.
 - b. User shall pay \$1,000.00 on the commencement date of this agreement as a security deposit. The deposit will be held until such time as Training Rooms #1 and #2 are restored to their original condition upon termination or expiration of the agreement.
5. Term. This agreement between the Parties is for a three year term beginning August 1, 2015- July 31, 2018. Annual evaluations shall take place to review agreement terms. This contract may be renewable at the end of the three years on terms and conditions agreed upon by the User and the City.
6. Insurance. The User agrees to maintain commercial general liability insurance in a minimum amount of \$1,000,000 per occurrence; \$2,000,000 annual aggregate. The policy shall cover liability arising from premises, operations, products-completed operations, personal injury, advertising injury, and contractually assumed liability. Said policy shall contain a clause which provides the insurer will not change, non-renew, or materially change the policy without first providing the City thirty (30) days prior written notice. The User shall provide the City with a Certificate of Insurance for such coverage. The City shall be named as an additional insured.
7. Indemnification. To the fullest extent permitted by law, the User agrees to defend , indemnify and hold harmless the City, and its employees, officials, volunteers and agents from and against all claims, actions, damages, losses and expenses, including attorney fees, arising out of the User's negligence or the User's performance or failure to perform

its obligations under this agreement. The User's indemnification obligation shall apply to the User's subcontractor(s), or anyone directly or indirectly employed or hired by the User, or anyone for whose acts the User may be liable. The User agrees this indemnity obligation shall survive the completion or termination of this agreement.

8. Termination. The City shall have the option to terminate this agreement at any time. Termination shall be effective upon ten (10) days written notice to the User.

8. General Provisions.

- A. Entire Agreement. This Agreement supersedes any prior or contemporaneous representations or agreements, whether written or oral, between the Parties and contains the entire agreement.
- B. Assignment. The User may not assign this Agreement to any other person unless written consent is obtained from the City.
- C. Amendments. Any modification or amendment to this Agreement shall require a written agreement signed by both Parties.
- D. Nondiscrimination. In the hiring of employees to perform work under this Agreement, the User shall not discriminate against any person by reason of any characteristic protected by state or federal law.
- E. Force Majeure. Except for payment of sums due, neither party shall be liable to the other or deemed in default under this Agreement, if and to the extent that such party's performance is prevented by reason of Force Majeure, as determined by the City.
- F. Notices. All notices and other communications under this Agreement must be in writing and must be given by registered or certified mail, postage prepaid, or delivered by hand at the addresses set forth below.
- G. Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Minnesota. All proceedings related to this Agreement shall be venued in the State of Minnesota.
- H. Waivers. The waiver by either party of any breach or failure to comply with any provision of this Agreement by the other party shall not be construed as, or constitute a continuing waiver of such provision or a waiver of any other breach of or failure to comply with any other provision of this Agreement.
- I. Counterparts. This Agreement may be signed in counterparts, each of which shall be deemed an original, and which taken together shall be deemed to be one and the same document.
- J. Savings Clause. If any court finds any portion of this Agreement to be contrary to law, invalid, or unenforceable, the remainder of the Agreement will remain in full force and effect.

IN WITNESS WHEREOF, the Parties, have caused this Agreement to be approved on the date above.

**Haring & Walstrom, LLC,
DBA- Acceleration Northwest**

CITY OF COON RAPIDS

By: _____

By: _____

Name: _____

Name: Matt Stemwedel

Title: _____

Title: City Manager

By: _____

Name: Jerry Koch

Title: Mayor

Approved as to form:

David J. Brodie
City Attorney