

CERTIFIED PROFESSIONAL TENNIS INSTRUCTOR AGREEMENT

THIS CERTIFIED PROFESSIONAL TENNIS INSTRUCTOR AGREEMENT ("Agreement") made and entered into on this 29th day of September, 2025 (Effective Date) by and between ELITE TENNIS, a Florida corporation whose address is 2890 Casterton Drive, Melbourne FL, 32940, ("ELITE TENNIS") and the CITY OF PALM COAST, a municipal corporation of the State of Florida, holding tax exempt status, whose address is 160 Lake Avenue, Florida 32164, ("CITY"). CITY and ELITE TENNIS are collectively referred to herein as "Parties".

WITNESSETH:

WHEREAS, ELITE TENNIS is in the business of providing certified instructors who provide tennis lessons and related services (Services), is competent and qualified to provide said services, and desires to render said services to patrons of the CITY'S Southern Recreation Center in accordance with the terms and conditions stated herein; and

WHEREAS, CITY desires to have competent and qualified Certified Instructors provide tennis lessons and related services at its Southern Recreation Center;

NOW, THEREFORE, in consideration of the mutual understandings and covenants set forth herein, the receipt and sufficiency of which is hereby acknowledged, CITY and ELITE TENNIS agree as follows:

1. SERVICES:

A. Tennis Lessons. In exchange for a monthly payment from ELITE TENNIS to CITY as set forth in Exhibit A, during the term of this Agreement the CITY will provide lesson space at the Southern Recreation Center to ELITE TENNIS for the provision of tennis lessons and related services as further described in Exhibit A.

B. Quality. TENNIS PRO(S) has informed CITY, and hereby represents to CITY, that they have extensive experience in performing and providing the tennis lessons, and that it is well acquainted with the components that are properly and customarily included within such Services and the requirements of laws, ordinances, rules, regulations, or orders of any public authority or licensing entity having jurisdiction. ELITE TENNIS shall diligently and in a professional and timely manner perform and provide the Services to patrons of the Southern Recreation Center in conformance with commonly accepted industry and professional codes and standards, including the USTA, standards of CITY, and the laws of any Federal, State, or local regulatory agencies. ELITE TENNIS shall be responsible for keeping apprised of any changes to applicable laws.

C. Tennis Reporting. ELITE TENNIS shall report quarterly reporting (October to December, January to March, April to June, and July to September) on financial reporting, attendance, lessons, programs, etc. to CITY staff for ELITE TENNIS usage at the Southern Recreation Center.

D. CITY Premises. At all times while on CITY'S premises, ELITE TENNIS shall comply with all rules and regulations of CITY.

2. TERM AND TERMINATION:

A. Term. This Agreement shall take effect on the Effective Date and shall terminate at the end of one (1) year unless extended by written mutual agreement or otherwise terminated in accordance with this Agreement.

- a. The CITY reserves the right to review and renegotiate the terms of this agreement, including the rent rate, every three (3) months based on reports provided by ELITE TENNIS.

B. Termination By CITY. CITY may terminate this Agreement at any time upon ninety (90) days prior written notice. In the event of such termination, ELITE TENNIS shall immediately cease all work unless such notice expressly provides otherwise.

C. Termination By ELITE TENNIS. ELITE TENNIS shall have the right to terminate this Agreement by way of a written notice, if CITY commits a material breach of the Agreement and fails to remedy such breach within fifteen (15) days after receipt of written notice of default.

3. **RENT:** Tenant shall compensate the City monthly at a rate of \$600 a month. Fee shall be due on the first day of each month. Each year thereafter on effective date the annual fee shall increase by 3.0%.

4. REPRESENTATIONS AND WARRANTIES. ELITE TENNIS represents and warrants the following:

A. ELITE TENNIS shall perform services strictly in accordance with and conform to this Agreement and any applicable industry standards and practices including but not limited to the USTA.

B. ELITE TENNIS has obtained and will maintain during the term of this Agreement, at their sole and exclusive expense, any and all permits, licenses, permissions, approvals, or similar consents required to maintain their status as a Tennis certified instructor.

C. ELITE TENNIS shall comply with Federal, State, and local environmental, health, and safety laws and regulations applicable to the performance of services under this Agreement.

5. INDEMNIFICATION/SOVEREIGN IMMUNITY AND INSURANCE.

A. Indemnification. ELITE TENNIS shall indemnify, hold harmless and defend CITY from and against any and all liabilities, damages, losses, and costs, including but not limited to, reasonable attorney's fees, to the extent the foregoing are caused by the error, omission, negligence, recklessness, or intentionally wrongful conduct of the ELITE TENNIS in the performance of this Agreement, including damage to persons or property. CITY reserves its rights to be represented in any such action by its own counsel at its own expense. The indemnification obligations herein shall not be limited to the amount of insurance coverage required herein. This indemnification provision shall survive any termination or expiration of this Agreement.

B. Sovereign Immunity. CITY expressly retains all rights, benefits and immunities of sovereign immunity and nothing herein shall be deemed to affect the rights, privileges, and immunities of City as set forth in Section 768.28, Florida Statutes.

C. Insurance. ELITE TENNIS shall, at ELITE TENNIS own cost, procure insurance in accordance with Exhibit "B" Insurance Requirements, attached hereto and made a part hereof.

6. ALTERNATIVE DISPUTE/CONFLICT RESOLUTION.

A. In the event of a dispute arising under this Agreement, the Parties agree to exhaust the conflict resolution procedures reasonably imposed by CITY prior to filing suit or otherwise pursuing legal remedies. Such procedures are available upon request.

B. ELITE TENNIS agrees that they will file no suit nor otherwise pursue legal remedies based on facts or evidentiary materials that were not presented for consideration in the dispute resolution procedures set forth in subsection (A) of this Section.

C. In the event that the CITY'S dispute resolution procedures are exhausted and a suit is filed or legal remedies are otherwise pursued, the Parties shall exercise their best efforts to resolve disputes through voluntary mediation. Mediator selection and the procedures to be employed in voluntary mediation shall be reasonably imposed by CITY. The costs of voluntary mediation shall be shared equally among the Parties participating in the mediation.

7. ASSIGNMENT. ELITE TENNIS shall not assign this Agreement, any rights hereunder, nor delegate or subcontract any obligations or work, without the prior written consent of CITY, and any such purported assignment without such written consent shall be void. This Agreement shall be binding on ELITE TENNIS heirs, executors, legal representatives, successors and permitted assigns.

8. AUDIT OF BOOKS AND RECORDS. ELITE TENNIS shall maintain all books, documents, papers, accounting records and other evidence pertaining to this Agreement during the term of this Agreement and for five (5) years subsequent to the expiration or termination of this Agreement and/or final payment whichever is later. CITY or CITY'S authorized representative, may at all reasonable times during the term of this Agreement and for five (5) years thereafter and upon reasonable notice, inspect and audit the books, documents, papers, accounting records and other evidence pertaining to this Agreement and ELITE TENNIS shall make such materials available upon CITY'S request. ELITE TENNIS agrees that if any litigation, claim, or audit is started before the expiration of the record retention period established above, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.

9. CHOICE OF LAW/JURISDICTION. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Florida. In any action or proceeding required to enforce or interpret the terms of this Agreement, venue shall be of the Seventh Judicial Circuit in and for Flagler County, Florida, or the Middle District of Florida in Orlando, FL., if in federal court.

10. CONFLICT OF INTEREST

A. ELITE TENNIS hereby certifies that no undisclosed conflict of interest exists with respect to the Agreement, including, but not limited to, any conflicts that may be due to representation of other clients, customers or vendees, other contractual relationships of ELITE TENNIS, or any interest in property that ELITE TENNIS may have.

B. ELITE TENNIS shall not engage in any action that would create a conflict of interest for any CITY employee or other person during the course of performance of, or otherwise related to, this Agreement or which would violate or cause others to violate the provisions of Part III, Chapter 112, Florida Statutes, relating to ethics in government.

C. ELITE TENNIS further certifies that any conflict of interest that arises during the term of this Agreement shall be immediately disclosed in writing to CITY.

D. Violation of this Section shall be considered as justification for immediate termination of this Agreement.

11. ENTIRE AGREEMENT. Each Exhibit referred to and attached to this Agreement is an essential part of this Agreement. The Exhibits and any amendments or revisions thereto, even if not physically attached hereto, shall be treated as if they are part of this Agreement. This Agreement shall constitute the entire understanding of the Parties and shall not be changed, amended, altered, or modified except in writing and signed by authorized representatives of the Parties with the same formality and equal dignity herewith. All prior agreements, whether written or oral between the Parties relating to the subject matter hereof are superseded by this Agreement and are of no further force or effect.

12. INDEPENDENT CONTRACTOR. The relationship of the Parties established by this Agreement is that of independent contractors. It is agreed that nothing herein contained is intended or should be construed as in any manner creating or establishing a relationship of co-partners between the Parties, or as making the ELITE TENNIS the agent, representative, or employee of CITY for any purpose, or in any manner,

whatsoever. ELITE TENNIS shall have no claim to pension, workers' compensation, unemployment compensation, civil service or other employee rights or privileges granted to CITY'S officers and employees either by operation of law or by CITY.

13. INTERPRETATION. This Agreement is the result of bona fide arms length negotiations between CITY and ELITE TENNIS and all Parties have contributed substantially and materially to the preparation of the Agreement. Accordingly, this Agreement shall not be construed or interpreted more strictly against any one party than against any other party.

14. NOTICES. Whenever either party desires to give notice to the other, it must be given by written notice, sent by registered or certified United States mail, with return receipt requested, addressed to the party for whom it is intended at the place last specified and the place for giving of notice shall remain such until it shall have been changed by written notice in compliance with the provisions of this Section. For the present, the Parties designate the following as the respective places for giving of notice:

FOR CITY: FOR ELITE TENNIS:

City of Palm Coast ELITE TENNIS
Attn: City Manager Attn: President
2890 Casterton Drive, Melbourne FL, 32940

15. PUBLIC RECORDS LAW.

A. ELITE TENNIS specifically acknowledges that this Agreement is subject to the laws of the State of Florida, including without limitation, Chapter 119, Florida Statutes, which generally make public all records or other writings made or received by the Parties.

B. IF ELITE TENNIS HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE ELITE TENNIS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CITY'S CUSTODIAN OF PUBLIC RECORDS, ATTN: KALEY COOK, CITY

CLERK, AT 386-986-3713, kcook@palmcoastgov.com, 160 LAKE AVENUE, PALM COAST, FLORIDA 32164.

16. SEVERABILITY. If any provision of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable to the fullest extent permitted by law.

17. WAIVER. The failure of CITY to insist in any instance upon the strict performance of any provision of this Agreement, or to exercise any right or privilege granted to CITY hereunder, shall not constitute or be construed as a waiver of any such provision or right and the same shall continue in force.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the Effective Date.

CITY OF PALM COAST

By: Lauren Johnston
17644D609F7D434...

Name: Lauren Johnston
Title: Acting City Manager

ELITE TENNIS

By: Joe Frascogna
2CE1577D3819416...
Authorized Signatory

Name: Joe Frascogna
Title: Jff

EXHIBIT A

ELITE TENNIS shall provide Tennis instructions and relates services to patrons of the Southern Recreation Center, as follows:

ELITE TENNIS are to provide tennis lessons for beginner, intermediate and advanced tennis students on an individual and group basis. Such instruction shall be the result of a mutual agreement between the **ELITE TENNIS** and each student as to scheduled time and number of lessons. These tennis lessons shall be offered to students to either learn the basic skills or advance their tennis skills at a steady pace.

ELITE TENNIS shall schedule lessons to accommodate the number of students registered and make required schedule adjustments to facilitate optimal learning conditions with regard to ages, skill level, and individuals involved. Lessons may be scheduled all days of the week. Lesson schedules shall be coordinated with the Southern Recreation staff to ensure that there are no conflicts with reservations or events on the courts.

ELITE TENNIS may use multiple staff to accommodate instruction and events. All staff must be hired by ELITE TENNIS and must adhere to all regulations and guidelines of this contract.

Minimum requirements for lessons:

Lessons- Five (5) lessons per month (private, couples and/or group).

Adult Programs- One (1) program offered per quarter during Fall, Winter and Spring for Adult Programs.
**CITY has retained the rights to Welcome to Tennis/ Tennis 101, Round Robins*

Junior Programs- Three (3) programs offered per quarter during Fall, Winter and Spring for Higher Level Teen tennis
**CITY has retained rights to the following programs: Adaptive Tennis*

Summer Clinics- Four (4) one-week summer clinic sessions. Two (2) sessions must accommodate children age 4 to 15 –The other Two (2) sessions may be used for either children, teen or adult clinics.

Stringing- ELITE TENNIS will provide racquet stringing services on an as needed basis at the CITYs request. ELITE TENNIS will be responsible for collecting all fees. The CITY will receive \$5 for every service from the ELITE TENNIS.

**CITY has retained rights for all fees from purchases made in Pro Shop including string, grip and dampeners.*

Events/Tournaments- ELITE TENNIS is to assist in representing and coordinating with CITY staff for The Palm Coast Open and any USTA/ITF/UTR events/tournaments scheduled at the Southern Recreation Center. Services may include: Stringing, answering questions, and assist in event.

In addition, the ELITE TENNIS may host their own event/tournament, limited to one a quarter with approval from the CITY. These events should be sanctioned through USTA/ITF/UTR. The ELITE TENNIS may host more events on the approval of the CITY. The CITY will receive 10% of all entry fees.

Marketing- ELITE TENNIS will be required to do all marketing for their services, programs and events. The ELITE TENNIS may utilize the CITY to obtain marketing collateral in ordinance with marketing

regulations to promote. Such collateral may include: Posters, Flyers, BrightSign and inclusion in newsletters.

Lesson Space/Teaching Areas – designated before lesson(s) by CITY staff to accommodate other events and/or reservations. Multiple lessons may occur throughout the day if permissible and under the approval of the designee. ELITE TENNIS agrees passholder reservations are top priority. Services to proceed on the first day of the month following execution of this Agreement.

EXHIBIT B

Insurance Requirements

1. GENERAL.

- 1.1.** Prior to performance under this Agreement, ELITE TENNIS shall furnish CITY with a Certificate of Insurance signed by an authorized representative of the insurer evidencing the insurance required in Section 3 below. CITY, its officials, officers, and employees shall be named additional insured under the Commercial General Liability policy using CG 1185 or its equivalent, as well as additional insured under the business auto policy. Except as otherwise specified in the Agreement, the insurance shall become effective prior to the commencement of work by ELITE TENNIS and shall be maintained in force until the Agreement completion date. The insurance provided by ELITE TENNIS shall apply on a primary basis and any other insurance or self-insurance maintained by CITY or CITY'S officials, officers, or employees shall be in excess of and not contributing with the insurance provided by or on behalf of ELITE TENNIS. The Workers' Compensation Policy and the Commercial General Liability required by this Agreement shall be provided on an occurrence rather than a claims-made basis. The Certificate of Insurance shall provide that CITY shall be given not less than thirty (30) days written notice prior to the modification, cancellation or restriction of coverage.
- 1.2.** Until such time as the insurance is no longer required to be maintained by ELITE TENNIS. ELITE TENNIS shall provide CITY with a renewal or replacement Certificate of Insurance not less than thirty (30) days before expiration or replacement of the insurance for which a previous certificate has been provided. In addition to providing the Certificate of Insurance, if required by ELITE TENNIS shall, within thirty (30) days after receipt of the request, provide CITY with a certified copy of each of the policies of insurance providing the coverage required.
- 1.3.** ELITE TENNIS waives all rights against CITY for recovery of damages to the extent covered by Commercial General Liability, Commercial Umbrella Liability, Business Auto Liability or Workers Compensation and Employers Liability insurance maintained per requirements herein.
- 1.4.** Neither approval by CITY nor failure to disapprove the insurance furnished by a subcontractor or another ELITE TENNIS shall relieve TENNIS INSTRUCTOR of ELITE TENNIS full responsibility for performance of any obligation including ELITE TENNIS indemnification of CITY under this Agreement.
- 1.5.** It shall also be the responsibility of ELITE TENNIS to ensure that all of its subcontractors performing Services under this Agreement are in compliance with the insurance requirements of this Agreement as defined above.
- 1.6.** Compliance with the insurance requirements set forth herein shall not relieve ELITE TENNIS, its employees or agents of liability from any indemnification obligation under this Agreement.
- 1.7.** Nothing herein shall be construed as a waiver of sovereign immunity by CITY beyond the limits set forth in Section 768.28, Florida Statutes.

2. INSURANCE COMPANY REQUIREMENTS.

- 2.1.** ELITE TENNIS shall obtain or possess and continuously maintain the coverage from a company or companies, with a Best's Rating of "A" or better and a Financial Size Category of "VII" or better according to A.M. Best CITY. Companies issuing policies other than Workers' Compensation, must be authorized to

conduct business in the State of Florida and prove same by maintaining Certificates of Authority issued to the companies by the Department of Insurance of the State of Florida. Policies for Workers' Compensation may be issued by companies authorized as a group self-insurer by Section 440.57, Florida Statutes.

3.2. If, during the period which an insurance company is providing the insurance coverage required by this Agreement, an insurance company shall: 1) lose its Certificate of Authority, 2) no longer comply with Section 440.57, Florida Statutes, or 3) fail to maintain the requisite Best's Rating and Financial Size Category, ELITE TENNIS shall, as soon as ELITE TENNIS has knowledge of any such circumstance, immediately notify CITY and immediately replace the insurance coverage provided by the insurance company with a different insurance company meeting the requirements of this Agreement. Until such time as ELITE TENNIS has replaced the unacceptable insurer with an insurer acceptable to CITY, ELITE TENNIS shall be deemed to be in default of this Agreement.

4. COVERAGE. Without limiting any of the other obligations or liability of ELITE TENNIS, ELITE TENNIS shall, at ELITE TENNIS sole expense, procure, maintain and keep in force amounts and types of insurance conforming to the minimum requirements set forth in this subsection. The amounts and types of insurance shall conform to the following minimum requirements:

3.1. Commercial General Liability.

Using the latest edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01), as filed for use in the State of Florida by the Insurance Services Office, without the attachment of restrictive endorsements other than the elimination of Coverage C, Medical Payment and the elimination of coverage for Fire Damage Legal Liability:

LIMITS

Personal & Advertising Injury Limit \$1,000,000.00

Each Occurrence Limit \$1,000,000.00

Legal Liability to Participants \$1,000,000

The CGL limits may be satisfied by a combination of primary CGL and Umbrella/Excess coverage. When Umbrella/Excess is provided it shall follow form.

4.2. Business Auto Policy.

ELITE TENNIS insurance shall cover ELITE TENNIS for those sources of liability which would be covered by Part IV of the latest edition of the standard Business Auto Policy (ISO Form CA 00 01), as filed for use in the State of Florida by the Insurance Services Office, without the attachment of restrictive endorsements. Coverage shall include owned, non-owned and hired autos.

The minimum limits to be maintained by ELITE TENNIS (inclusive of any amounts provided by an Umbrella or Excess policy) shall be per accident combined single limit for bodily injury liability and property damage liability. If the coverage is subject to an aggregate, ELITE TENNIS shall maintain separate aggregate limits of coverage applicable to claims arising out of or in connection with the work under this Agreement. The separate aggregate limits to be maintained by ELITE TENNIS shall be a minimum of three (3) times the per accident limit required and shall apply separately to each policy year or part thereof.

The minimum amount of coverage under the Business Auto Policy shall be:

LIMITS

Each Occurrence Bodily Injury and \$1,000,000.00

Property Damage Liability Combined

3.3. Professional Liability: ELITE TENNIS shall provide professional liability insurance as well as errors and omission insurance in a minimum amount of \$1,000,000 CSL or its equivalent, with a combined single limit of not less than \$1,000,000, protecting ELITE TENNIS against claims of the City for negligence, errors, mistakes, or omissions in the performance of Services to be performed and furnished by ELITE TENNIS.