

Non-Profit Organization Agreement to Provide Concessions

Unit Name: Cleveland Sportservice (Hereinafter "Sportservice") Location: Cleveland, Ohio

1. TERM

1.1 Subject to the terms of Section 7 hereof, this Agreement shall be in effect for a period of March-October 2008 following execution hereof

2. NON-PROFIT STATUS

2.1 The named "Non-Profit/Service Group" (hereinafter referred to as Group(s), in accordance with rules and regulations of the Internal Revenue Service is volunteering the time of its members without compensation in exchange for donations described below.

2.2 Group must supply Cleveland Sportservice Inc. with a "Non-Profit Federal Tax Exempt Identification Number." This agreement is not valid without this information. If the number changes for any reason, it is the Group's responsibility to update Sportservice.

2.3 Sportservice is an equal opportunity company and does not and will not permit discrimination against or by any Group of individuals on the basis of race, color, religion, creed, age, sex, disability, national origin/ancestry or other classification protected by the law. Sportservice reserves the right to terminate this agreement immediately in the event the Group, in any way, violates this equal opportunity policy, as applied to the operation of the ballpark or service of customers.

3. RETENTION/SCOPE OF SERVICES

3.1 Sportservice hereby retains the Group to provide its Members as concession stand workers for events held at the ballpark during the term of this agreement.

3.2 Nothing in agreement confers any exclusive rights to the Group for either products or locations.

3.3 Subject to the following conditions, the Group will also receive a training donation computed on the basis of \$30.00 for each new Group member trained, the maximum number of which will be determined by Sportservice. New group member is someone who has not participated in the Progressive Field fundraising program during the 2007 baseball season. All Group volunteers must attend training and be certified in TEAM (Techniques for Effective Alcohol Management) training. The cost of TEAM training will be paid by Sportservice. Sportservice may limit the actual number of workers trained by Sportservice under this provision in its sole discretion. This donation will not be earned by the Group until the Group has completed all of its scheduled commitments. To be eligible for this donation, the volunteer must attend all required training as well as participate in the program by working at least two events.

3.4 The Group agrees to provide its volunteer members to work at the concession stands specified on Exhibit A (schedule consideration page) for the number of events specified on Exhibit A (see page 9). No compensation will be paid to such workers. They are volunteering their time to the Group. If the Group is required to pay \$60.00 per day per worker provided by Sportservice. This sum will be deducted from the Group's donation check. The 2nd offense may lead to suspension or termination, at the discretion of Sportservice

3.5 The minimum commitment shall be **12 events.**

3.6 Group leaders and other Group Members shall be required to report 3 ½ hours prior to the scheduled start of the game. Group report times are at the discretion of Sportservice Management. The leader and 2-3 workers must be present 3 ½ hours prior to game time, all other workers must be in the location 30 minutes prior to gates.

3.7 Access to premises is permitted only to Group Members specifically working in the Group's assigned locations. Group Members may only gain access by using the designated employee entrance. Unauthorized admission for ticketed events is viewed as "theft of services" and shall result in termination of the individuals' participation in the program and/or group's contract.

3.8 Unless otherwise specified, Group's assigned location(s) must be prepared, staffed, and open for business 15 minutes prior to the opening of the gates. The assessed penalty for late opening will be \$250.00.

3.9 The Group shall keep each location open and fully staffed and operational until directed by Sportservice Management to close. Fully staffed is defined as all points of sale open and support staff in place.

3.10 Sportservice Management must be notified of and verify all inventory variances before gates open.

3.11 Each location shall be issued a daily preparation sheet defining the quantity of each product to be prepared during the duration of the events. Excessive preparation causing waste will result in a charge back against donations. Such charge will reflect the wholesale cost of the product(s) on the first offense and full price for each offense thereafter. Sportservice will, at its sole discretion, judge what is considered excessive. All products not fit for sale, "spoilage" (i.e. overcooked, dropped on the floor, crushed, mistreated, cooked surplus at end of event, etc.) shall be saved during the event and accounted for.

3.12 Only Sportservice has the authority to change any items, portions, control technique or price charged for any item.

3.13 Group leader shall assume all responsibility for the cash until its return to the cash room.

3.14 The Group will keep each location clean, making sure all displays are neat and full for the duration of the event. A thorough cleaning, meeting Health Department Regulations is required after each event, failure to do so will result in a \$ 250.00 assessment deducted from donations.

3.15 It is the Group Leader's responsibility to keep its members informed with regards to the specific terms and conditions of this agreement. All group members are expected to work the full duration of the event. If a Group member leaves during an event, the Group's donation for the event shall be reduced by \$ 70.00.

4 DONATIONS

4.1 For all beer portable units, the Group will be paid \$60.00 per member per day working at such portables. No percentage commission will be paid for these locations.

4.2 With respect to fully staffed concession stands and food portables, the Group shall be paid the greater of \$60.00 per volunteer member supplied to staff the stand, subject to Sportservice's discretion and scheduling directives, or the following percentage commissions, as applicable:

(a) For all other permanent concession stands or food portables operated at the 12:05 p.m., Monday - Thursday games ("Business Man's Specials") the Group shall receive 12% of the Net Sales for the first five Businessman Specials worked by the Group and 14% of the Net Sales derived from any additional Businessman Specials worked by the Group.

(b) For all other games worked by the Group at a permanent concession stand or food portables the applicable percentage commission shall be 10% of Net Sales.

4.3 When a Group commits to work 20 or more events and fulfills such commitment the Group will receive one of the following bonus donations at the end of the season:

- **For 20 events receive a \$500 bonus donation.**
- **For 30 events receive a \$750 bonus donation.**
- **For 40 events receive a \$1000 bonus donation.**
- **For 50 events receive a \$1250 bonus donation.**
- **For 60 events receive a \$1500 bonus donation.**
- **For 80 events receive a \$2000 bonus donation.**

The Group must have the minimum number of volunteer workers needed to operate their assigned concession stand at every game committed to. The bonus will be paid at the end of the season.

Groups are only eligible for one bonus donation.

4.4 All payments otherwise payable hereunder are subject to reductions and offsets described in Sections 3.3, 3.7, 3.13, 3.14, 3.16 and 5.6.

4.5 In addition, any payments otherwise payable hereunder shall be reduced by cash or inventory shortages.

4.6 In the event of termination for cause, the Group shall forfeit any and all payments accrued but as yet then unpaid hereunder.

4.7 All chargeable inventories not fit for sale (i.e. dropped on the floor, crushed, burnt) as well as cooked surplus must be retained and recorded as spoilage at the end of the event. Sportservice management will verify all such waste and insure that it is being properly recorded on the spoilage report and stand inventory report. Inventory credit will not be allowed unless physically checked by Sportservice management and Group leader. Sportservice and the Group leader must both sign all spoilage reports signifying both verification of the items and accuracy of the count. This food is to be disposed of on-site; it is NOT to be taken out of ballpark.

4.8 At the end of each event, the Group Stand Leaders will reconcile the cash turned in against the sales figures calculated from the stand inventory report. The formula is: **(starting inventory) plus (transfers in) minus (transfers out) minus (gratis) minus (spoilage) minus (ending inventory) equals (units sold); (units sold) times (unit price) equals (inventory sales)**. The inventory sales figure should match the cash turned in. Sportservice management may at its discretion spot check or recount inventory to resolve discrepancies greater than this amount, and/or may assess any shortage against the Group's commission.

4.9 Sportservice shall pay all Groups by check by mail on a monthly basis. All checks will be made payable to the Group name, not to an individual. ***Please note it is the Group's responsibility to notify Fundraising Manager of any address changes.***

4.10 The Group is responsible for its accounting records once received by Sportservice and for tracking the participation of all it's volunteers. Any assistance by Sportservice Management to supplement any record keeping that is the sole responsibility of the group will be subject to a \$25.00 charge against future donation for each request.

**** In accordance with the laws of the State of Ohio, Group Members shall not make any effort to solicit beer sales in order to increase the amount of the donation made payable to the Group.**

5. GENERAL WORK RULES

5.1 The Group will ensure that:

(a) Each of the duties listed below must be performed by volunteer Group Members who satisfy minimum age requirement under the laws of the State of Ohio for the dispensing, selling and/or handling of alcoholic beverages.

- (I) Any Group Member working as a bartender that includes sales of wine or mixed alcoholic beverages) must be at least 21 years old.
- (II) Any Group Member only pouring beer from a spigot into a cup at a concession stand must be at least 19 years old.
- (III) Any Group Member working as a server and delivering alcoholic beverages to customer must be at least 19 years old.

(b) All Group Members must bring proof of age to each event. Only valid state driver's license or identification cards issued by the Bureau of Motor Vehicles to non-drivers shall be accepted as proof of age. If a Group Member fails to bring such identification he or she will not be permitted to work and that Group will not receive credit for him or her in computing payments hereunder.

(c) It is mandatory that all Group Members attend training sessions as established by Sportservice. Group leaders are responsible for learning all required policies and procedures and also for communicating and enforcing said policies and procedures with the members of their Group. To ensure that the Group has enough properly trained workers, Sportservice requires a minimum number of people to be trained. Only properly trained Members of the Group shall be present in their respective concession stand. All Group Members will abide by the Sportservice work rules, a copy of which will be made available to all Group Leaders and communicated to all Group Members.

(d) All Group Members will complete the Sportservice training program which will include alcoholic beverage and food preparation handling training.

(e) All Group Members will comply with all laws and regulations relating to the handling and service of food and alcoholic beverages, including but not limited to the following:

At the time of sale of alcohol, if the guest appears to be 30 years of age or younger, any Group Member who is permitted to serve alcohol shall:

(i) ask the customer for either a valid driver's license identification card issued by the Bureau of Motor Vehicles to non-drivers (expired driver's license, college ID'S and other forms of ID may not be accepted), US Passport or Military Identification Card. All forms of identification presented must have photo as well as birthdate:

(ii) inspect the driver's license or identification card presented by the customer; and

(iii) compare the description on the driver's license or identification card with the appearance of the customer for physical features such as height, weight, hair and eye color.

(f) Any deviation from the foregoing may result in termination of an individual volunteers participation and/or the entire Group, forfeiture of all donations otherwise payable hereunder and possible criminal penalties that might be assessed by the

State of Ohio, county and/or city enforcement or police departments. The Group will reimburse Sportservice for any fines, penalties or costs assessed to Sportservice for any such violation.

5.2 The Group acknowledges that the Group and all Group Members are considered agents of Sportservice by virtue of this agreement and shall not be considered employees of Sportservice. Group Members will not receive compensation from Sportservice for their donation of services to the Group. In addition, Sportservice shall not be required to pay any wages, or extend any benefits to the Group Members. Sportservice shall be responsible for directing the conduct of Group Members as their conduct relates to the Liquor Control Law of the State of Ohio and the rules and regulations of the Liquor Control Law.

5.3 All Group Members shall follow specific operational directives given by Sportservice Management and supervisors.

5.4 All Group Members must abide by the Sportservice work rules, a copy of which will be made available to all group leaders.

5.5 All Group Members shall wear a Sportservice provided uniform shirt and hat. Pants for the entire Group must be of a Dockers-style and black in color. Hats may be purchased from Sportservice at a cost of \$25 each, to be deducted from the groups' donation. Any shirts issued to a group not returned to Sportservice at the conclusion of the event will result in a \$50 deduction from the groups' donation.

5.6 All Groups will be required to wear a Sportservice provided identification badge at all times. The badge will allow for access to the Ballpark. Lost, forgotten or damaged badges will be replaced with a \$25 deduction from the Groups' donation.

5.7 Any Group Member reporting for duty out of proper uniform shall be sent home and will not be considered in the count of the minimum number of trained Group Members supplied by the Group.

5.8 Sportservice reserves the right to require termination or suspension of any Group Member who (in sole judgment of Sportservice) does not represent the best interests of Sportservice and its client with respect to the successful, responsible and satisfactory operation of concession activities of Cleveland Sportservice, Inc.

5.9 The Group shall take reasonable care in the use of premises, equipment, products, and any other items furnished by Sportservice. Failure to do so shall result in a charge to the Group. Group Members shall not disassemble or attempt to repair any equipment. The Group agrees to carefully monitor its operations and activities and use its best efforts to prevent negligence, by action or omission, by any of its Members in the conduct of the group's operations hereunder.

5.10 The Group shall have 30 days after each home stand to dispute any donation computations.

6. DEFAULT / TERMINATION

6.1 Sportservice shall have the right to terminate this agreement immediately in event the Group fails to promptly perform any and all of the responsibilities hereunder including but not limited to duties/policies set in place by Sportservice management and/or this agreement. If the Group fails to arrive for any scheduled event, this agreement shall be terminated and all Groups' rights as they pertain to this agreement shall terminate.

6.2 If the Group fails to arrive for any scheduled event, the group will be charged \$300.00 or all Groups' rights as they pertain to this agreement shall terminate.

6.3 Sportservice will maintain records of all shortages and may, at its sole discretion, cancel this agreement, if and when excessive shortages occur.

7. INDEMNIFICATION/INSURANCE

7.1 The Group hereby agrees to indemnify and hold Sportservice and The Cleveland Indians, LLC ("Sportservice's Landlord") harmless from and against:

- (a) Any claim made by any Group member arising from or relating in anyway to services contemplated by or rendered under this Agreement;
- (b) Any claim or demand made by any governmental agency with respect to amounts which it is alleged should have been
 - (i) paid to any Group member in respect of services provided pursuant to this Agreement;
 - (ii) withheld and remitted from any amount paid by Sportservice hereunder; or
 - (iii) remitted with respect to any plan or fund relating to the compensation of injured workers;
- (c) All suits and claims that may be based on any injury or alleged injury to any person (including death) or to the property of any person not a party hereto, that may arise, or that may be alleged to have arisen out of its negligence or intentional action or that of its volunteer members (including, but not limited to any injury or alleged injury or death of any of such volunteer members volunteering to work for the Group); and

7.2 In any such event, the Group shall, at its own cost and expense, pay all reasonable charges of attorneys and all costs and other expenses arising therefrom or incurred by Sportservice or Sportservice's Landlord in connection therewith. The foregoing indemnity shall not apply with respect to any injuries which may be alleged to have arisen out of the Group's negligence or intentional action (or that of any volunteer thereof) if and to the extent the same shall be ultimately determined to have arisen out of the negligence or intentional action of Sportservice or Sportservice's Landlord.

7.3 The Group represents and warrants to Sportservice:

- (A) that it has adequate Commercial General Liability Insurance coverage which includes Contractual Liability coverage and Personal Injury coverage for its volunteers working for it at the facility (including, but not limited to, coverage for injuries to or death of a Group member incurred while providing services under this Agreement, regardless of causation) and
- (B) that such coverages will be maintained throughout the term of this Agreement.

8. MISCELLANEOUS

This Agreement shall be governed by the laws of the state of Ohio and represents the entire agreement between Sportservice and the Group named below and supercedes all other prior negotiations or agreements, either written or oral. Business conditions may occasionally dictate modifications to the specific terms of this Agreement; however, no changes can be made without specific written approval of Sportservice.

Important F.Y.Ps

• **Training:** All group members before participating in our program are required to attend a general training class scheduled by their group leader. **In addition to the general class, Group Leaders must attend a Leader Training class.** All group members that worked in the 2007 season must complete a

2008 Training Class.

• **Parking:** Is available in the Commercial Avenue lot on a first come first serve basis. We recommend car pooling.

- **Uniforms:** Group members are required to wear a Sportservice shirt and Hat. The group members must wear their own Docker-style black pants (no cut-offs, sweat pants, athletic pants, cargo pants, jeans, etc.).
- **Shoes:** Wear something comfortable. No open toed/heel shoes or sandals are permitted.
- **Cell Phones:** Cell phones must be kept out of sight at all times and used only in the event of an emergency. Cell phones should never be used in concession areas when gates are open.
- **Identification:** All volunteers are required to carry a picture I.D. and present it at the request of Sportservice Management. All volunteers must wear a Sportservice identification badge at all times while in the facility.
- **Valuables:** Please leave all valuables at home. Sportservice is not responsible for your personal items.

REPORT TIMES:

Monday-Thursday Games 7:05pm game (Weeknights) :

3:30 3 to 4 people

4:00-5:00 Rest of group

*** GATES OPEN 1 HOUR BEFORE THE SCHEDULED START OF THE GAME**

12:05pm game (Weekdays):

8:30 3 to 4 people

9:00-10:00 Rest of group

*** GATES OPEN 1 HOUR BEFORE THE SCHEDULED START OF THE GAME***

7:05pm game (Weekends - Friday, Saturday):

3:00 3 to 4 people

3:30-4:00 Rest of group

*** GATES OPEN 1 AND 1/2 HOURS BEFORE THE SCHEDULED START OF THE GAME***

1:05pm game (Weekends - Sunday):

8:30 3 to 4 people

9:00-10:00 Rest of group

GATES OPEN 1 AND 1/2 HOURS BEFORE THE SCHEDULED START OF THE GAME***