

## TRIPLE NET LEASE AGREEMENT

### SUMMARY OF LEASE AGREEMENT TERMS

To the extent that conflicts exist between the information set forth in this Summary of Lease Agreement Terms and the Lease Agreement, the information set forth in the Lease Agreement controls.

Landlord:	Chemung County Industrial Development Agency, a New York public benefit corporation
Landlord's Address:	400 East Church Street, Elmira, New York 14901
Tenant:	CAN-USA Sports LLC
Tenant's Address:	560 Steege Hill Rd. Corning, NY 14830
Premises:	First Arena located 155 N. Main Street, Elmira, New York 14901 and adjacent 15 space parking lot
Monthly Rent	\$125.00
Security Deposit	One month of Monthly Rent
Permitted Use:	Ice skating rink to be used as home ice for a federal hockey league team or any other nationally recognized professional hockey team, youth hockey, public skating and other public events and related food and beverage service and for no other use whatsoever. Premises shall be open to the public for not less than the hours specified herein for youth hockey (a minimum of 29 hours/week), skate and shoot (a minimum of 3 hours/week), family skating (a minimum of 2 hours/week) and general public skating (a minimum of 4 hours/week) during such times and at rates

	approved by Landlord in its reasonable discretion.
--	----------------------------------------------------

**THIS TRIPLE NET LEASE AGREEMENT** ("Lease"), dated July 16, 2018, by and between **Chemung County Industrial Development Agency**, a New York public benefit corporation ("Landlord"), and **CAN-USA Sports LLC**, a New York limited liability company ("Tenant").

**ARTICLE 1  
DEFINITIONS & EXHIBITS**

1.01 **Definitions.** Except as otherwise expressly provided herein, the following terms have their respective meanings set forth herein:

A. "Additional Rent" means all sums (except Monthly Rent) payable by Tenant to Landlord under this Lease.

B. "Affiliates" mean any one or more of the following parties: (i) any party controlling, controlled by or under common control with Tenant; (ii) any party merging with, or surviving a reorganization of Tenant; and (iii) any party acquiring all or substantially all of either or both of the assets or equity of Tenant.

C. "Alterations" are collectively Consent Required Alterations and Permitted Alterations.

D. "Building" means, collectively, the improvements known as First Arena and located on the Land.

E. "Business Day" means any day other than a Saturday, a Sunday, or a Holiday.

F. "Consent Required Alterations" are defined in Section 6.02.

G. "Environmental Laws" means any and all federal, state or local statutes, ordinances, rules, regulations, standards, policies, or other requirements relating to pollution or protection of human health and safety and the environment, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act, as amended by SARA, the Resource Conservation and Recovery Act, the Toxic Substances Control Act, the Clean Air Act, and the Clean Water Act and any similar law of the state, county or city in which the Premises is located.

H. "Holidays" means the calendar days on which the following holidays fall or are observed: New Year's Day, Martin Luther King, Jr. Day, Memorial Day, Labor Day, Independence Day, Thanksgiving and Christmas.

I. "HVAC" means heating, ventilation or air conditioning.

J. "Interest Rate" means the Prime Rate of Interest from time to time as published in The Wall Street Journal (or a similar publication should The Wall Street Journal not be in publication at that time) on the most recent Business Day preceding the day in question.

K. "Land" means parcels of land commonly known as 155 N. Main Street, Elmira, New York, and described in greater detail on **Exhibit A** attached hereto.

L. "Lease Commencement Date" is July 16, 2018.

N. "Lease Year" means each period of twelve (12) consecutive calendar months commencing on the Lease Commencement Date.

O. "Legal Requirements" means all laws, ordinances, orders, rules and regulations, whether local, state, federal or promulgated by other agencies or bodies applicable to the Premises, including, without limitation, the Alcohol Beverage and Control Law, all Environmental Laws, building codes and regulations, indoor air quality requirements and Title Three of the Americans with Disabilities Act.

P. "Minimum Public Use" means open to the public for not less than the hours specified herein for youth hockey (a minimum of 29 hours/week), skate and shoot (a minimum of 3 hours/week), family skating (a minimum of 2 hours/week) and general public skating (a minimum of 4 hours/week) during such days and hours as approved by Landlord in its reasonable discretion.

Q. "Monthly Rent" means the amount described in Section 3.01 hereof.

R. "Permitted Alterations" are defined in Section 6.02.

S. "Premises" are the Land, Building and parking.

T. "Real Estate Taxes" means real estate taxes (including, but not limited to County, City, School, Special Assessments, District Assessments, water, sewer and light) and personal property taxes levied or assessed against the Building and the Land as finally determined to be legally payable in any Tax Year and any transfer, sales, use or rent taxes.

U. "Regulated Substances" means any substance for which its use, manufacture, storage, transport, treatment, release or disposal is regulated by an Environmental Law; asbestos containing materials; PCB's; petroleum products; and all other toxic, dangerous or hazardous chemicals, materials, substances, pollutants or wastes which pose a hazard to the health and safety of the occupants of the Building as the same may be defined under the Environmental Laws.

V. "Rent" means the Monthly Rent and Additional Rent.

W. "Tax Year" means each calendar year during the Term during which Real Estate Taxes are payable without regard for when such Real Estate Taxes are assessed or levied.

Y. "Tenant Default" has the meaning set forth in Section 10.01 hereof.

Z. "Term" means 12 months commencing on the Lease Commencement Date, as such may be extended in accordance with the terms of this Lease.

AA. "Untenantable" and "Untenantability" means that the affected portion of the Premises is not reasonably fit for Tenant's use and occupancy for the conduct of its business in a normal fashion on a continuing basis.

1.02 Exhibits. Exhibits A, B and C are attached hereto and incorporated herein by reference.

## ARTICLE 2 BASIC LEASE PROVISIONS

2.01 Parties. Landlord leases to Tenant, and Tenant leases from Landlord, the Premises.

2.02 Premises. Landlord shall deliver the Premises to Tenant in "as is" condition without representation or warranty.

Tenant hereby agrees that prior to execution of this Lease, it has been given the opportunity to fully examine the Premises and upon execution of this Lease hereby accepts the Premises in its AS IS, WHERE IS condition.

2.03 Notices. Except as otherwise provided, all notices and notifications required or permitted under this Lease to be sent from one party to the other must be in writing and sent by a nationally recognized private carrier of overnight mail (e.g., Federal Express) or by United States certified mail, return receipt requested and postage prepaid to either party as set forth below, or at such other addresses as the parties may designate by notice from time to time. Notices given by Landlord or to be received by Landlord (but not Tenant) may be signed by and sent for the benefit of Landlord to its Counsel. All notices are deemed effective on receipt or refusal.

To Tenant:                   CAN-USA Sports LLC  
                                  560 Steege Hill Rd.  
                                  Corning, New York 14830

If to Landlord:           Chemung County Industrial Development Agency  
                                  300 East Church Street  
                                  Elmira, New York, 14901  
                                  Attention: Chairman

With a Copy to:         Susan R. Katzoff, Esq.  
                                  BOUSQUET HOLSTEIN PLLC  
                                  110 W. Fayette St.  
                                  Suite 1000  
                                  Syracuse, NY 13203

2.04 Use. Tenant may use the Premises for operation of an ice skating rink to be used as home ice for a federal hockey league team or any other nationally recognized professional hockey team, youth hockey, public skating and other public events and related food and beverage

service and for no other use whatsoever. Premises shall be open to the public for not less than the hours specified herein for youth hockey (a minimum of 29 hours/week), skate and shoot (a minimum of 3 hours/week), family skating (a minimum of 2 hours/week) and general public skating (a minimum of 4 hours/week) during such times and at rates approved by Landlord in its reasonable discretion. Tenant shall not injure, deface or otherwise harm the Premises, nor commit any nuisance; nor permit in the Premises inflammable fluids or chemicals, nor permit any cooking to such an extent as requires special exhaust venting, nor permit the emission of any objectionable noise or odor, nor make, allow or suffer any waste, nor make any use of the Premises which is improper, offensive or contrary to any law or ordinance or which will invalidate or increase the premiums of any of Landlord's insurance or which is liable to render necessary any alteration or addition to the Building, nor conduct any auction, fire sale, going out of business sale or bankruptcy sale. Landlord acknowledges that use of Zamboni equipment in accordance with manufacturer guidelines and Legal Requirements is not a nuisance or other violation of this Section 2.04.

2.05 Term. Tenant shall have and hold the Premises for the Term, as the same may be extended or terminated as provided for herein.

### **ARTICLE 3 MONTHLY RENT, PAYMENT OF MONTHLY RENT**

3.01 Monthly Rent. Beginning on the Lease Commencement Date, Tenant agrees to pay to Landlord Monthly Rent in the amount set forth in the Summary of Lease Agreement Terms. Tenant shall pay in immediately available funds Monthly Rent in advance on the first day of each calendar month at the address for Landlord set forth in Section 2.03 or as otherwise directed by Landlord in writing. All Monthly Rent shall be due without deduction, offset, prior notice, or demand.

3.02 Partial Months. Monthly Rent for partial months is prorated on a per diem basis based on the number of days in the subject calendar month.

3.03 W-9. Simultaneously with its execution of this Lease, Landlord and Tenant shall each complete, execute and deliver to the other the W-9 Form attached hereto as **Exhibit B**.

3.04 No waiver/No Accord and Satisfaction. No acceptance by Landlord of a lesser sum than the Monthly Rent and/or Additional Rent or any other charge then due shall be deemed to be other than on account of the earliest installment of such Monthly Rent and/or Additional Rent and/or charge, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as Monthly Rent, and/or Additional Rent and/or charge be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such installment or pursue any other remedy in this Lease provided.

**ARTICLE 4  
REAL ESTATE TAXES**

4.01 Real Estate Taxes. Prior to the imposition of any fine, lien, interest or penalty for late payment thereof, Tenant shall directly pay to the appropriate taxing authorities all Real Estate Taxes which become due and payable (as opposed to merely levied or pending, and regardless of when first assessed) during the Term with respect to the Premises. Landlord is responsible for all Real Estate Taxes for the Premises which become due and payable before the commencement, or after the expiration or earlier termination (other than a Tenant Default), of the Term, regardless of when the same were initially assessed. To the extent that any Real Estate Taxes may legally be paid in installments, Tenant may pay such assessment in installments; in such event, Tenant shall be liable only for installments to the extent that they become due and payable during the Term hereof. All amounts referred to in this section for the Tax Year in which the Term expires must be apportioned so that Tenant pays only those portions thereof which correspond with the portion of such year as are within the Term.

4.02 Contestations. Tenant may, by written notice, request that Landlord contest Real Estate Taxes for any year during the Term, provided that Tenant shall be responsible for paying all reasonable, actual and documented costs of any such contest. If Landlord fails or refuses to contest Real Estate Taxes requested by Tenant (unless Landlord fails or refuses to do so on commercially reasonable grounds), then Tenant may, at its sole cost and expense, bring appropriate proceedings in Tenant's name for contesting the same. The net amount of Real Estate Taxes recovered as a result of such proceedings, whether commenced or paid for by Landlord or Tenant (e.g., the amount recovered after payment of all sums necessary to attain such recovery), will be paid to Tenant. Landlord and Tenant shall cooperate with each other with respect to the proceedings so far as is reasonably necessary.

**ARTICLE 5  
CERTAIN OBLIGATIONS AND RIGHTS**

5.01 Tenant's Obligations. A. Tenant's Obligations. Except as set forth to the contrary in Section 5.02(A) below, Tenant, at its own expense, will maintain, repair and keep the Premises (including, without limitation, parking areas, landscaping, structural elements, equipment and Building systems) in reasonably good condition and repair and appearance, and shall promptly make necessary repairs which may be required to be made upon or in connection with any of the Premises in order to keep and maintain the Premises in good repair and appearance. Tenant's obligations under this section include, but are not limited to, providing desired janitorial services, providing HVAC maintenance and repair, ice plant facilities maintenance and repair, equipment upkeep, providing landscaping maintenance, snow plowing and the maintenance and striping of the Premises parking areas. Tenant shall continuously operate the Premises during the Term for the Minimum Public Use. Notwithstanding anything herein to the contrary, the Tenant agrees to immediately undertake any and all necessary repairs to the ice plant facility even if the cost of same exceeds that set forth in Section 5.02(A).

B. Tenant's Operations. Subject to Section 5.01(E), Tenant shall pay directly to the proper authorities charged with the collection thereof all charges for water, sewer, gas, oil,

electricity, telephone and other utilities or services used or consumed on the Premises during the Term, whether designated as a charge, tax, assessment, fee or otherwise, including, without limitation, water and sewer use charges and taxes, if any, all such charges to be paid as the same from time to time become due. It is understood and agreed that Tenant shall make its own arrangements for the installation or provision of all such utilities and that Landlord shall be under no obligation to furnish any utilities to the Premises and shall not be liable for any interruption or failure in the supply of any such utilities to the Premises, but will not hinder or interfere with Tenant's rights to do so. Notwithstanding anything in this Section 5.01(B) to the contrary, the Landlord agrees to continue to pay the New York State Electric and Gas ("NYSEG") charges incurred in connection with the ordinary operation of the Premises through September 30, 2018. Thereafter, the Landlord shall continue to pay the NYSEG charges incurred in connection with the ordinary operation of the Premises in the amount of \$103,000. Any and all NYSEG charges above and beyond \$103,000 (following September 30, 2018) shall be the sole responsibility of the Tenant.

C. Food and Beverage Operations. If Tenant elects to offer food and beverages for sale at the Premises, Tenant shall comply with all Legal Requirements including obtaining necessary permits and licenses. Tenant may offer or allow a licensee to offer alcoholic beverages as permitted by Legal Requirements and subject to Tenant and/or licensee providing to Landlord evidence of, and maintaining in full force and effect, liquor liability insurance or appropriate rider, acceptable to the Landlord and naming Landlord as an additional insured.

D. Tenant's Warranties and Representations. Tenant warrants and represents that it is authorized to enter into this Lease and no third party's consent is needed and that the person executing this Lease has full power and authority to execute and bind Tenant.

E. Quarterly Reports to Landlord. Tenant shall deliver to Landlord on April 15, July 15, October 15 and January 15 a written report for the most recently-ended calendar quarter showing the use of Premises for youth hockey, skate and shoot and skate, family skate and public skate for such quarter including number of teams for youth hockey, skaters for all public skate and/or skate and shoot; revenues for each category.

5.02 Landlord Obligations. A. Landlord's Obligations. Notwithstanding anything to the contrary in this Lease, Landlord shall pay up to \$200,000 of costs incurred by Tenant to repair and/or replace the ice plant to a level sufficient for operation for the uses set forth herein during the Term. Such expenditure shall be made in accordance with this Section and Exhibit C attached hereto. To the extent that the costs actually incurred by Tenant for repair or replacement of the ice plant are less than \$200,000 during the Term hereof, Landlord shall apply the remaining balance to reimburse Tenant for other capital expenditures actually incurred for the repair and replacement of Building systems and structural elements in accordance with Exhibit C attached hereto and incorporated herein by reference. Notwithstanding anything herein to the contrary, the Landlord shall have no obligation to remit funds for any approved expenditure in excess of \$200,000 except as set forth in Section 5.03 hereof. In addition, the Landlord has agreed to facilitate the cleaning of the Premises to "broom clean" condition following the effective date of this Lease and shall expend up to \$5,000 to achieve such result (the "Cleaning"). Such Cleaning shall be limited to some or all of the following: sweeping and/or mopping of the floors, cleaning of windows and bathrooms and the wiping down of seats. The Cleaning shall commence within thirty (30) days of the Lease Commencement Date.



B. Landlord Access. Tenant shall reasonably cooperate with Landlord to allow Landlord to perform its obligations under this Lease. Subject to the terms of this Lease, Landlord shall have reasonable access to the Premises to perform its obligations hereunder, or for other reasonable purposes, including without limitation to inspect or show the Premises, at reasonable times, on not less than forty-eight (48) hours' prior verbal notice to Tenant, except in an emergency (as reasonably determined by Landlord), in which event no prior notice shall be required.

C. Parking. The Premises include 15 surface parking spaces adjacent to the Building, of which Tenant is entitled to the exclusive use.

D. Landlord Changes. Landlord shall not make any changes to all, or any portion of, the Premises that adversely affects Tenant's use of, or access to, the Premises or the parking areas without Tenant's prior written consent.

E. Landlord's Warranties; Quiet Enjoyment.

1. Landlord warrants that it is the fee owner of the Premises, except as otherwise disclosed herein, and warrants that it is authorized to enter into this Lease and no third party's consent is needed and that the person executing this Lease has full power and authority to execute and bind the Landlord.

2. Landlord warrants that, provided a Tenant Default has not occurred, Tenant shall have the peaceful possession and quiet enjoyment of the Premises during the Term, subject to the rights of Landlord under this Lease and any mortgagee or beneficiary under any mortgage or deed of trust encumbering the Premises.

5.03 Capital Expenditures. If, during the term of this Lease, a capital expenditure is required, **Tenant shall be fully responsible for the cost thereof, subject to reimbursement by Landlord as set forth in Section 5.02(A) hereof.** Any capital expenditures made above and beyond those set forth in Section 5.02(A) hereof, *if previously approved in writing by the Landlord in its sole discretion*, shall be amortized over ten (10) years, and to the extent the Tenant exercises its right of first refusal to purchase the Premises in accordance with Section 6.07 hereof during the Term hereof, the unamortized cost of the capital improvement(s) made in accordance with in this Section 5.03 shall be credited against the purchase price of the Premises. In the event the Tenant does not exercise its option to purchase the Premises in accordance with Section 6.07 hereof, but the Landlord sells the Premises to a third party during the Term hereof, and provided the capital improvement(s) has been made in accordance with this Section 5.03, the unamortized cost of such capital improvement(s) shall be repaid to the Tenant out of the proceeds of the sale to the third party. If the Landlord does not sell the Premises either as set forth in this Section 5.03 or within four (4) years following the expiration of the Term hereof, then the unamortized cost for any such capital improvement(s) made and *previously approved in writing by the Landlord as set forth herein*, shall be repaid to the Tenant, with interest at the rate of four (4) percent annually, on the first day of the second month following the expiration of the four year period set forth above, *provided* such capital improvement(s) was previously approved by the Landlord in writing in accordance with the terms hereof (the "Capital Payment"). If the Landlord sells the Premises within five (5) years following the expiration of the Term hereof, the Tenant will receive the Capital Payment out of the proceeds of such sale at the time of closing.

If repairs or replacements are required to be made by Tenant, Landlord may demand that Tenant make them promptly and if Tenant shall not commence the repairs or replacements within a reasonable time after the demand, Landlord may make the repairs or replacements and shall not be responsible to Tenant for any loss or damage accrued by reason of the repairs or replacements nor shall such payment be treated as a Capital Payment. Tenant agrees that it will pay to Landlord, on demand, the cost of any repairs or replacements made by Landlord as Additional Rent. Failure to pay for the repairs or replacements shall be a default under the Lease.

5.04 Tenant Responsibilities. Tenant shall contract for, and pay directly for all Premises janitorial services and Premises utilities, including but not limited to electricity, gas, water and telecommunication services (cable, telephone, internet computer networks, etc.) and other services which relate directly to the operation of Tenant's business. The parties understand and agree that this is a triple net lease and that Tenant is responsible for all operating costs and repair, replacement and maintenance costs associated with the Premises, as well as insurance, taxes and utilities. Landlord has only those obligations which are specifically set forth herein.

## **ARTICLE 6 TENANT'S RIGHTS**

6.01 Subleasing and Assignment of Lease; Change in Ownership. Tenant shall not, without Landlord's consent, assign this Lease, or sublet all or part of the Premises, which consent may be withheld, conditioned or delayed in Landlord's sole discretion. Tenant shall reimburse Landlord for any commercially reasonable expenses (including reasonable attorneys' fees) incurred by Landlord in rendering its consent. Consent shall not be effective until Landlord has received such reimbursement. Tenant shall not assign or otherwise transfer or allow an assignment or transfer, of a controlling interest in the Tenant, whether by operation of law or otherwise (including, without limitation, by way of a merger, consolidation or a change of control whereby the current existing equity holders of the Tenant, as of the date of this Lease, would own, in the aggregate, less than a majority of the total combined voting power of all classes of equity interest of the Tenant or any surviving entity), without the prior written consent of Landlord, which consent shall be in the Landlord's sole and absolute discretion.

6.02 Licenses. Tenant may, from time-to-time and upon notice to Landlord but without Landlord's consent, grant one or more licenses to one or more of Tenant's service providers to use part of the Premises for the provision of services for Tenant and Tenant's invitees, provided the use by such Licensees is consistent with the uses permitted under this Lease and the license is subject in all respects to the terms and conditions of this Lease. In no circumstances (i) are the licenses deemed to be transfers or assignments of the Lease, or sublettings of the Premises; and (ii) is Tenant released from its obligations under this Lease. No one or more such licensees will alter any of Tenant's options under this Lease, including, without limitation, options to alter the Term or the Premises or the right of first refusal. Any licensee shall maintain the insurance required of Tenant under Sections 5.01 and 7.01, as applicable, and name Landlord as an additional insured as applicable thereon. Tenant shall upon request of Landlord furnish to Landlord evidence of licensee's insurance.

6.03 Alterations. Tenant may make minor improvements, additions, installations, decorations and changes to the Premises which do not adversely affect the structural components, electrical system, HVAC system, ice plant facilities, security system, mechanical

systems, or plumbing of the Premises or Building. Tenant may not, in making such improvements, additions, installations, decorations and changes, cause the Premises, or any part thereof, to become out of code compliance (collectively, "Permitted Alterations"). Permitted Alterations include, but are limited to, supplemental HVAC systems and ice plant facilities desired by Tenant to exclusively service the Premises. Tenant may make any other alterations ("Consent Required Alterations") to the Premises with Landlord's prior written consent, which consent will not be unreasonably withheld, conditioned or delayed after Landlord receives appropriate architectural drawings and plans sufficient to allow it to render such consent. All Alterations permitted pursuant to this Lease are Landlord's property on completion but Tenant may be required to remove any of the same at Tenant's cost should Landlord provide a commercially reasonable request for Tenant to remove same. Systems furniture, Tenant's trade fixtures (including moveable partitions, panels, and screens) are Tenant's property and remain Tenant's property at the Term's expiration; provided, however, if the same are not removed prior to the expiration of the Term, they are abandoned and become the property of Landlord. Notwithstanding the foregoing, if the Tenant obtains the Landlord's approval prior to the end of the Term, the Tenant may have an additional seven (7) days following the expiration of the Term to remove such property from the premises. Any remaining property shall be deemed abandoned by the Tenant. In making Alterations, Tenant shall employ contractors licensed to perform the contemplated work. Tenant shall not permit any lien to be of record against the Premises for work or materials provided or obligations incurred by or for Tenant more than thirty (30) days after Tenant's receipt of notice thereof. If Tenant does not remove any such lien within such thirty (30) day period, Landlord may, but shall not be obligated to, cause such lien to be removed and Tenant shall, upon written notice, immediately reimburse Landlord for the costs and expenses thereof, including, without limitation, reasonable attorneys' fees.

All contractors for Permitted Alterations or Consent Required Alterations must be approved by Landlord, which consent will not be unreasonably withheld, delayed or denied. In particular, Landlord must be assured of the reputation of the contractor(s) and Landlord must be satisfied with the insurance certificates of the contractor.

Tenant shall bear the risk of the Permitted Alterations or Consent Required Alterations, and Landlord shall not insure nor be responsible for any dissatisfaction by Tenant with such Permitted Alterations or Consent Required Alterations which may, by way of illustration but not of limitation, cause unintended or unforeseen damage or inconvenience to Tenant.

6.04 Signage. Tenant has the right to install signage identifying Tenant and any federal hockey league or any other nationally recognized professional hockey team approved team from time to time provided that it complies with Legal Requirements and has the prior written approval of Landlord, not to be unreasonably withheld, conditioned or delayed.

6.05 Holding Over. If Tenant holds over the Term of this Lease, the Hold Over Rent will be at 150% of the Monthly Rent in effect during the last month of the previous Lease Term with all other terms being unaffected.

6.06 Extension Option. Provided no Tenant Default (or occurrence which with notice or lapse of time would constitute a Tenant Default) has occurred and is continuing, Tenant has the option (the "Extension Option") to extend the Term of this Lease for two one-year

terms (an "Extension Term") on all the same terms and conditions. Tenant shall give notice ("Tenant's Notice") to exercise the Extension Option not earlier than 60 days prior to expiration of the current Term.

6.07 Right of First Refusal. A. If, at any time during the Term, Landlord intends to offer the Premises for sale, Landlord shall give written notice ("Landlord's Refusal Notice") to Tenant of its intent to sell the Premises, and Tenant will have a right of first refusal ("First Refusal Right"). Landlord's Refusal Notice must specify: (i) the proposed purchase price; (ii) proposed closing date; (iii) conditions of the purchase; and (vi) all other economic terms which Landlord intends to offer with respect to the Premises. Landlord shall be required to comply with all Legal Requirements relative to the sale of the Premises, including but not limited to the General Municipal Law (the "GML") and the Public Authorities Law; and shall also consider any requests for financial assistance made under the GML by any proposed purchaser, including but not limited to a payment in lieu of taxes.

B. Tenant may, within 15 calendar days after the receipt of the Landlord's Refusal Notice, give notice to Landlord agreeing to purchase the Premises in accordance with the terms set forth in the Landlord's Refusal Notice. If Tenant gives such notice, then Landlord shall within 20 Business Days deliver to Tenant a purchase contract for the purchase price and on the terms and conditions set forth in the Landlord's Refusal Notice.

C. Should Tenant fail to give notice under Section 6.07(B) above within the time provided, or if Tenant fails to execute and deliver the purchase contract within 15 calendar days after delivery to Tenant which reflects the agreed upon terms, then in either event, Landlord is free to sell the Premises to a third party in accordance with the terms set forth in the Landlord's Refusal Notice; provided, however, if Landlord proposes to sell the Premises on terms more favorable to a third party than disclosed to Tenant in the Landlord's Refusal Notice, then Landlord shall give an additional notice to Tenant of the revised terms, and Tenant has the right to purchase the Premise in accordance with the terms of the revised notice and otherwise in accordance with the procedures set forth in this Section 6.07.

6.08 Proceeds of Operations. Tenant shall be permitted to retain 100% of all proceeds from the sale of food and beverages, sponsorships and other revenue generated from the operation of the Premises during the Term hereof, or any Extension Term, in accordance with the terms hereof. At any time during or after a Tenant Default, the Tenant shall provide the Landlord with monthly reporting regarding all such revenues and expenses and such other information as Landlord reasonably requests.

## **ARTICLE 7 LIABILITY**

7.01 Insurance. Tenant's Insurance. Tenant shall maintain in full force and effect during the Term of this Lease, and any subsequent extensions:

1. "all-risk" commercial property insurance for real and personal property and tenant's betterments and improvements in the amount of the full replacement values thereof, as the values may exist from time to time;

2. A policy of commercial general liability insurance with a limit of liability of not less than \$1,000,000 per occurrence on an "occurrence" basis and \$2,000,000 in the aggregate for bodily injury, including death, and property damage, including but not limited to, contractual liability under this Lease and personal injury, with blanket excess liability coverage in an amount not less than \$2,000,000, covering the Premises and equipment located thereon and the Tenant's use or occupancy thereof against all claims on account of bodily injury or death and property damage occurring upon, in or about the Premises or in connection with the ownership, maintenance, use and/or occupancy of the Premises and all appurtenant areas; Landlord shall be named as an additional insured;

3. Workers' Compensation insurance in compliance with statutory requirements for all Tenant's employees; and

4. Liquor liability insurance, if applicable; Landlord shall be named as an additional insured.

Unless otherwise approved by Landlord, Tenant's insurance must be issued by duly licensed or approved non-admitted insurers in the state where the Premise(s) is located, with an "A.M. Best" rating of not less than A- VII. Prior to the Lease Commencement Date and not less than 10 days after the expiration of such required policy(ies) provided there shall be no gap in coverage, Tenant shall provide a certificate(s) of insurance to Landlord providing satisfactory evidence that the Tenant has complied with all insurance requirements, including Landlord's status as an additional insured. Tenant shall give thirty (30) days prior written notice to Landlord in the event of cancellation of such insurance. Failure to maintain the insurance policies as required by this Lease is a material breach of contract. Insurance may be arranged under separate policies for the full minimum limits of liability required, or by a combination of underlying policies and Umbrella or Excess Liability policy(ies). Any Umbrella or Excess Liability insurance policy(ies) evidenced must be adequate to satisfy the insurance requirements of this Lease. Tenant's insurance shall be primary insurance, and not excess over, or contributing with, all other available sources. Any insurance and/or self-insurance maintained by Landlord shall not contribute with the insurance or benefit the Tenant in any way. Tenant's insurance shall apply separately to each insured against whom a claim is made and/or lawsuit is brought, except with respect to the limits of the insurer's liability. Tenant shall provide Landlord with certificate(s) of insurance, not less than ten (10) days prior to commencing work on the Premise(s) and not less than ten (10) days after the expiration of such required policy(ies) provided there shall be no gap in coverage.

7.02 Waiver of Claims; Subrogation. Notwithstanding anything to the contrary set forth in this Lease, Landlord and Tenant do hereby waive any and all claims against one another for damage to or destruction of real or personal property to the extent such damage or destruction is subject to coverage by the "all risks" property insurance of the type required by this Lease. The risk to be borne by each party shall also include the satisfaction of any deductible amounts required to be paid under the applicable "all risks" fire and casualty insurance carried by the party whose property is damaged, and each party agrees that the other party shall not be responsible for satisfaction of such deductible. These waivers shall apply if the damage would have been covered by a customary "all risks" insurance policy, even if the party fails to obtain such coverage. The intent of this provision is that each party shall look solely to its insurance with respect to property damage or destruction which can be covered by "all risks" property insurance of the type required by this Lease. Each such policy shall include a waiver of all rights

of subrogation by the insurance carrier against the other party, its agents and employees with respect to property damage covered by the applicable "all risks" fire and casualty insurance policy.

7.03 Environmental Compliance. Tenant shall clean up and mitigate the effect of any Regulated Substances or violations of Environmental Laws which it or its licensees caused or brought onto the Premises and shall indemnify Landlord from all liability resulting therefrom.

7.04 Requirements of Law. Tenant is responsible for compliance with Legal Requirements which are applicable to all or any part of the Premises. Tenant shall also obtain (and maintain), at Tenant's sole cost, any permit, license, certificate or other authorization required for the lawful and proper use and occupancy by Tenant or any other party of all or any part of the Premises for the uses herein permitted and shall exhibit the same to Landlord on Landlord's request.

7.05 Indemnification. Subject to the limitations set forth in this Section 7.05, Tenant shall defend, indemnify, and hold harmless Landlord from and against all claims, losses, demands, liabilities, actions, penalties, judgments, damages, costs and expenses (including reasonable attorneys' fees) (collectively, "Claims") suffered or imposed upon or against Landlord to the extent caused by (1) the negligence of Tenant or any person claiming by, through or under Tenant, or (2) any breach by Tenant of any representation, covenant or other term contained in this Lease; however, Tenant's obligations hereunder shall not apply (i) to the extent any Claim arises from the negligence or willful misconduct of Landlord, or (ii) to the extent such obligations are prohibited by applicable Law.

7.06 Exculpatory Clause. The Tenant shall look solely and only to the Landlord's estate and interest in and to the Premises for the satisfaction of any right of the Tenant arising out of this Lease or for the collection of judgment or other judicial process requiring the payment of money by the Landlord, and to no other property or assets of the Landlord. The term "Landlord" as used herein shall be limited to mean and include only the Landlord's interest in this Lease at the time in question, and in the event of any transfer or transfers of such interest, the Landlord herein named (and in the case of any subsequent transfer, the then transferor) shall be automatically freed and relieved from and after the date of such transfer of all liability as respects the performance of any covenants or agreements on the part of the Landlord contained in this Lease thereafter to be performed.

## **ARTICLE 8 LOSS OF PREMISES**

8.01 Damage. If the Premises are totally destroyed by fire or any other casualty (a "Casualty"), this Lease automatically terminates as of the date of such destruction, unless such destruction is caused by the acts/omissions of the Tenant, its employees, agents, licensees or others acting on its behalf. If the Building or the Premises are damaged by a Casualty not caused by Tenant, its employees, agents, licensees or others acting on its behalf, to the extent that the Premises are Untenantable and, in the opinion of a licensed architect selected by Landlord, and whom is reasonably acceptable to Tenant, cannot be repaired within one hundred twenty (120) days after the Casualty, either Landlord or Tenant may terminate this Lease as of the date of such Casualty by notice to the other within thirty (30) days after the Casualty. Landlord shall notify Tenant of such architect's opinion in writing within fifteen (15) days after the Casualty. If the

Building or Premises are damaged by a Casualty and this Lease is not terminated as aforesaid, the damage must be promptly repaired, or caused to be repaired, by Landlord at no cost to Tenant. If Landlord is obligated to repair, but repair is not completed within one hundred eighty (180) days after the Casualty, subject to Force Majeure, Tenant again has the right to terminate this Lease if Landlord does not complete repairs within thirty (30) days after notice from Tenant given after such one hundred eighty (180) day period. Until such repairs and restoration are completed, all Rent is abated in proportion to the portion of the Building or the Premises which are untenable or inaccessible by Tenant in the conduct of its business by virtue of the Casualty. If any such damage causes any portion of the Premises to become unusable or inaccessible by Tenant in the conduct of its business during the last six (6) months of this Lease, either Landlord or Tenant may, on thirty (30) days' notice to the other, terminate this Lease. In the event the Casualty is caused by the Tenant, or those acting by, through or under Tenant, this Lease shall not terminate and Tenant shall remain liable for payment of Rent and Additional Rent and shall promptly cause the Casualty to be repaired to the same standard as before the Casualty.

8.02 Eminent Domain. If the Premises are taken by eminent domain or condemnation (a "Taking"), this Lease terminates immediately on the effective date of the Taking. If there is a partial Taking of the Land, Building, or Premises, that materially adversely affects the operation of Tenant's business, Tenant may terminate this Lease by notice to the Landlord within thirty (30) days after the effective date of the partial Taking. Any notice to terminate must be given on or before thirty (30) days after the date the condemning authority takes possession and is effective as of the date of taking of possession unless another date is specified in the notice. If Tenant does not terminate this Lease, Landlord shall proceed with due diligence to make all appropriate renovations and repairs to the Land, Building, or Premises to restore the same to the condition that it was in prior to the partial Taking if applicable or possible. If Tenant does not terminate this Lease, Tenant shall remain in possession of the portion of the Land, Buildings, or Premises not taken on the same terms of this Lease, except that all Rent must be reduced in direct proportion to the area of the Land, Building, or Premises subject to the Taking. All Rent must also be reduced during any period of time which Tenant is not able to occupy any portion of the remaining Premises while Landlord is making the required repairs. The entire award or compensation from any Taking, whether for a total or partial taking or for the value of the leasehold, including any bonus value, shall belong to Landlord, except that Tenant shall be entitled to any award for damages to Tenant resulting from the Taking, including those related to any unamortized leasehold improvements paid for by Tenant, the interruption of Tenant's business, Tenant's moving expenses or Tenant's trade fixtures and equipment.

## **ARTICLE 9 SUBORDINATION AGREEMENT, OTHER DOCUMENTS**

9.01 Subordination, Attornment and Non Disturbance. This Lease is, and will at all times be, subject and subordinate to each ground lease, mortgage, deed to secure debt or deed of trust now or later encumbering the Premises, including each renewal, modification, supplement, amendment, consolidation or replacement thereof (each, an "Encumbrance"); provided, however, that Tenant's possession of the Premises will not be disturbed as long as Tenant is not in default beyond applicable cure periods under this Lease. At Landlord's request, Tenant will, without charge, promptly execute, acknowledge and deliver to Landlord (or, at Landlord's request, the Encumbrance holder) any instrument reasonably necessary to evidence this subordination.

Notwithstanding the foregoing, each Encumbrance holder may unilaterally elect to subordinate its Encumbrance to this Lease. Tenant covenants and agrees to attorn to the transferee of Landlord's interest in the Premises by foreclosure, exercise of any remedy provided in any Encumbrance, or operation of law (without any deductions or setoffs), if requested to do so by said transferee, and to recognize said transferee as the landlord under this Lease. Landlord will use its best efforts to secure a Non-Disturbance Agreement with any Encumbrance holder.

9.02 Estoppel Certificate. Each party hereby agrees, from time to time, on not less than thirty (30) days' prior notice, to execute and deliver to the other party an estoppel certificate in accordance with this Section 9.02 (an "Estoppel Certificate"). An Estoppel Certificate may be relied on by Landlord or Tenant, as appropriate, and any third party with whom Landlord or Tenant is dealing, and certify the following, as of the date thereof: (i) the accuracy of this Lease; (ii) the Lease Commencement Date and the date on which the Term expires; (iii) that this Lease is unmodified and in full force and effect or in full force and effect as modified, stating the nature of all modifications; (iv) whether to the executing party's knowledge the other party is in default or whether the executing party has any claims or demands against the other party and, if so, specifying such claim or demand; and (v) to other correct and reasonably ascertainable facts that are covered by the terms of this Lease.

## **ARTICLE 10 DEFAULT, DISPUTES**

10.01 Tenant Default. For purposes hereof the term "Tenant Default" means Tenant fails to: (i) pay the Rent within five (5) Business Days after Tenant receives notice from Landlord that the Rent was not received when due; (ii) operate the Premises for the Minimum Public Use; (iii) fails to maintain the insurance required by Sections 5.01 and 7.01 hereof, as applicable; (iv) perform or observe any of its other covenants or obligations under this Lease within thirty (30) days after receiving notice from Landlord specifying the nature and extent of the Tenant Default; provided, however, if the obligation is not reasonably curable within such thirty (30) day period, the time for cure shall be extended so long as Tenant continues to use reasonable efforts to effect a cure; or (v) a petition in bankruptcy is filed by or against Tenant and, if against, not discharged within ninety (90) days after filing.

10.02 Landlord Remedies. A. If a Tenant Default has occurred, Landlord may, after the expiration of all applicable cure periods, in addition to all other remedies under the Lease, at law or in equity: (i) end this Lease after giving Tenant an additional five (5) days written notice of its intention to do so and in accordance with any laws governing such termination, and Tenant shall then surrender the Premises to Landlord; (ii) enter and take possession of the Premises, in accordance with any laws governing such repossession, and remove Tenant, with or without having terminated the Lease or (iii) after an additional five (5) days written notice, take such action as may be necessary to cure such default and charge the reasonable cost of cure to Tenant as rent. Landlord's exercise of any of its remedies is not considered a surrender of the Premises by Tenant. A surrender must be agreed to in writing and signed by both parties.

B. If Landlord terminates this Lease or terminates Tenant's right to possess the Premises because of a Tenant Default, Landlord may hold Tenant liable for: (i) the Rent payable by Tenant to Landlord prior to the expiration of the Term and the present value of any future Rents payable over the remainder of the Term, less any amount which Landlord receives from



reletting the Premises after all of Landlord's reletting costs have been subtracted; (ii) any amounts Landlord incurs in reletting the Premises during the remainder of the Term, including but not limited to reasonable attorneys' fees, customary brokers' commissions, and tenant improvement costs and allowances; and (iii) other necessary and reasonable expenses incurred by Landlord in enforcing its remedies. Tenant shall pay any such sums due within thirty (30) days after receiving Landlord's invoice for the amounts. For purposes hereof present value means the discounted present value of the amount owing at an interest rate of four (4%) percent per annum. Tenant is liable for, and shall pay to Landlord within thirty (30) days after receiving Landlord's invoice, all reasonable attorneys' fees and other costs incurred by Landlord as a result of Tenant's Default.

10.03 Governing Law; Consent to Jurisdiction. This Lease and every controversy, dispute or claim arising out of or relating to this Lease shall be governed by the laws of the State of New York, without regard to its conflicts-of-laws provisions that if applied might require the application of the laws of another jurisdiction. TENANT IRREVOCABLY AND EXPRESSLY SUBMITS TO THE EXCLUSIVE PERSONAL JURISDICTION OF THE SUPREME COURT OF THE STATE OF NEW YORK, CHEMUNG COUNTY AND THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NEW YORK, TO THE EXCLUSION OF ALL OTHER COURTS, FOR THE PURPOSES OF LITIGATING EVERY CONTROVERSY, DISPUTE OR CLAIM ARISING OUT OF OR RELATING TO THIS LEASE.

10.04 Default Interest. If Tenant fails to pay any amount when due, including, but not limited to, the payment of Rent, then Tenant shall pay to Landlord default interest on such overdue amount at the rate of interest equal to the Interest Rate plus two percent (2%) until such failure to pay is cured. In addition, Tenant is subject to a late fee (other than assessment of interest) for the late payment of Rent in the amount of \$5.00 per month.

10.05 Landlord Default and Tenant Remedies. For purposes hereof, a "Landlord Default" exists if Landlord fails to perform any of its obligations under this Lease within thirty (30) days after receiving notice from Tenant specifying the nature and extent of such failure; provided, however, if the obligation is not reasonably curable within such thirty (30) day period, the time for cure will be extended so long as Landlord continues to use reasonable efforts to effect a cure. If a Landlord Default has occurred, then, in addition to all rights, powers or remedies permitted by law or in equity, Tenant may cure such Landlord Default and charge the cost thereof to Landlord, or sue for specific performance. Landlord is liable for, and shall pay to Tenant within thirty (30) days after receiving Tenant's invoice, all reasonable attorneys' fees and other costs incurred by Tenant as a result of any demonstrated Landlord Default.

## ARTICLE 11 MISCELLANEOUS

11.01 Force Majeure. Except where otherwise provided, neither party is responsible to the other for any losses resulting from the failure to perform any terms or provisions of this Lease if the party's failure to perform is attributable to war, riot, acts of God or the elements or any other unavoidable act not within the control of the party whose performance is interfered with and which, by reasonable diligence, such party is unable to prevent (each a "Force Majeure"). A Force Majeure does not relieve a monetary default.

11.02 End of Term. On the expiration of the Term or earlier expiration of this Lease, Tenant shall return the Premises in reasonably good condition as when Tenant took possession, excluding ordinary wear and tear, loss from Casualty and any other damage that Landlord is required to repair or restore pursuant to the provisions of this Lease. Tenant is not required to remove any Alterations permitted pursuant to this Lease.

11.03 Entire Agreement. This Lease, including the Exhibits, constitutes the entire agreement between Landlord and Tenant with respect to the Premises and may be amended or altered only by written agreement executed by both parties, and supersedes all prior agreements, whether written or oral, between the parties.

11.04 Non Discrimination. Landlord and Tenant shall not discriminate on the basis of race, age, color, religion, sex, national origin, disability or veteran's status in the use or occupancy of the Premises or the Building, or in their employment or choice of contractors, subcontractors or suppliers of materials for, or to be used for, the installation of any improvements in the Premises.

11.05 Binding on Successors. This Lease binds the parties, their heirs, successors, representatives and permitted assigns.

11.06 Ambiguities. Any rule of construction to the effect that any ambiguities are to be resolved against the drafting party does not apply to the interpretation of this Lease or any amendments or exhibits hereto.

11.07 Broker's Warranty. Landlord and Tenant warrant and represent that they have dealt with no real estate broker in connection with this Lease and that no other broker is entitled to any commission on account of this Lease. The party who breaches this warranty shall defend, hold harmless and indemnify the other from any loss, damage or expense, including reasonable attorneys' fees, arising from the breach.

11.08 Partial Invalidity. If any provision of the Lease is held by the final judgment of any court of competent jurisdiction to be illegal, invalid or unenforceable, the validity of the remaining portions or provisions must not be impaired or affected, and the rights and obligations of the parties must be construed and enforced as if the Lease did not contain that certain part, term or provision held to be illegal, invalid or unenforceable.

11.09 Captions. The captions appearing in this Lease are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such sections of the Lease nor in any way affect the Lease.

11.10 Waiver. The failure of either party to exercise any of its rights is not a waiver of those rights. A party waives only those rights specified in a written document signed by the party waiving its rights and such waiver shall not be a waiver of any other default concerning the same or any other provision of this Lease.

11.11 Reasonableness. Except as otherwise specifically set forth herein, if the consent, authorization or approval of either party hereto is required for the other party to take any action under this Lease (a "Required Consent"), such consent must not be unreasonably withheld, conditioned or delayed. Additionally, except as set forth herein, if any matter is required to be

determined by a party in exercising its discretion, judgment or opinion, then the same will be exercised reasonably and in good faith by the party required to make such determination.

11.12 Survival. All unperformed obligations hereunder not fully performed at the end of the Term shall survive the end of the Term, In addition, Sections 7.05 and 7.06 shall survive.

11.13 Time of the Essence. Time is of the essence of this Lease.

11.14 Severability. The unenforceability, invalidity, or illegality of any provision of this Lease shall not render the other provisions unenforceable, invalid or illegal.

11.15 Relationship of Parties. The only relationship of the parties is that of landlord and tenant. Landlord shall not in any way or for any purpose be deemed a partner, joint venturer or member of any joint enterprise with Tenant. No other party shall be deemed a third party beneficiary of the rights conferred in this Lease.

11.16 Counterparts. This Lease may be executed in any number of counterparts, each of which may be deemed an original, but all of which together shall constitute one and the same Lease.


11.17 Attorneys' Fees. In the event of any legal action or proceeding between the parties, the prevailing party in such action or proceeding shall be entitled to reimbursement of costs and expenses from the other party, including without limitation reasonable attorneys' fees and expenses and the costs of enforcing the provisions of this Lease.

11.18 Stage Storage. Landlord shall cooperate and use reasonable efforts to assist the Tenant in locating space to house the temporary stage used in the Premises during periods of non-use of the stage.

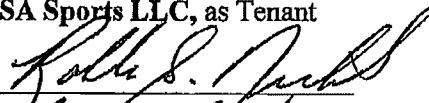
[The balance of this page is intentionally left blank.]

**IN WITNESS WHEREOF**, Landlord and Tenant have executed this Lease as of the date first written above.

Chemung County Industrial Development Agency,  
a New York public benefit corporation, as Landlord

By:   
Name: Alan Winston  
Title: Chairman

CAN-USA Sports LLC, as Tenant

By:   
Name: ROBBIE S. NICHOLS  
Title: OWNER/PRESIDENT

**EXHIBIT A**

**Legal Description of Land**

Legal Description

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Elmira, County of Chemung, State of New York, more particularly described as follows: Beginning at a point marking the intersection of the southerly line of West Gray Street and the westerly line of North Main Street, running thence S. 21° 10' 45" E along the westerly line of North Main Street a distance of 298.38 feet to a computed point in the westerly boundary line of North Main Street; said point being the northeast corner of premises owned by Elmira Real Properties, Inc., Liber 762 of Deeds of Chemung County; thence S 70° 12' 42" W a distance of 138.13 feet to a computed point; thence S 78° 23' 18" W a distance of 6.89 feet to a computed point; thence S 78° 20' 18" W a distance of 6.40 feet to a computed point; thence S 80° 24' 06" W a distance of 67.48 feet to a computed point; thence S 78° 48' 50" W a distance of 7.53 feet to a computed point; thence S 67° 08' 29" W a distance of 63.80 feet to a drill hole found; thence S 21° 14' 38" E a distance of 12.55 feet to a computed point; thence S 68° 54' 35" W a distance of 6.75 feet to a computed point; thence N 21° 05' 26" W a distance of 74.53 feet to a drill hole found; thence S 68° 54' 35" W a distance of 111.47 feet to a computed point; thence S 21° 28' 21" E a distance of 25.27 feet to a computed point; thence S 70° 18' 45" W a distance of 66.43 feet to an iron pin in the easterly line of College Avenue; thence N 21° 12' 21" W along the easterly line of College Avenue, a distance of 240.54 feet to a monument at the intersection of the easterly line of College Avenue and the southerly line of West Gray Street; thence N 68° 44' 40" E along the southerly line of West Gray Street a distance of 4.75 feet to the drill hole marking the southwest intersection of West Gray Street and North Main Street, which is the place of beginning.

Said premises are shown on a survey map by Weller Associates dated January 3, 2001, Job No. 11340.04.

**EXHIBIT B**  
W-9 Form

**Request for Taxpayer  
Identification Number and Certification**

Give Form to the  
requester. Do not  
send to the IRS.

Go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9) for instructions and the latest information.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.  
**CAN-USA SPORTS LLC**

2 Business name/disregarded entity name, if different from above

3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes.

Individual/sole proprietor or single-member LLC

Corporation

S Corporation

Partnership

Trust/estate

Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) **P**

Notes: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLO that is disregarded from the owner unless the owner of the LLO is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.

Other (see instructions)

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):  
Exempt payee code (if any) \_\_\_\_\_  
Exemption from FATCA reporting code (if any) \_\_\_\_\_  
*(Applies to accounts maintained outside the U.S.)*

5 Address (number, street, and apt. or suite no.) See instructions.  
**155 NORTH MAIN STREET**

6 City, state, and ZIP code  
**ELMIRA, NY 14901**

7 List account number(s) here (optional)

Requester's name and address (optional)

**Part I Taxpayer Identification Number (TIN)**

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give this Requester* for guidelines on whose number to enter.

Social security number

OR

Employer identification number

**Part II Certification**

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification Instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here

Signature of U.S. person **Robert S. Smith**

Date **7/30/18**

**General Instructions**

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9).

**Purpose of Form**

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1098-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.



## Request for Taxpayer Identification Number and Certification

Give Form to the  
requester. Do not  
send to the IRS.

▶ Go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9) for instructions and the latest information.

Print or type. See Specific Instructions on page 3.	<b>1</b> Name (as shown on your income tax return). Name is required on this line; do not leave this line blank. <b>Chemung County Industrial Development Agency</b>	
	<b>2</b> Business name/disregarded entity name, if different from above	
	<b>3</b> Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes.  <input type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate  <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶ _____ <small>Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.</small>	<b>4</b> Exemptions (codes apply only to certain entities, not individuals; see Instructions on page 3):  Exempt payee code (if any) _____  Exemption from FATCA reporting code (if any) _____  <small>(Applies to accounts maintained outside the U.S.)</small>
	<b>5</b> Address (number, street, and apt. or suite no.) See Instructions. <b>400 E. Church St.</b> City, state, and ZIP code <b>Elmira, NY 14901</b>	Requester's name and address (optional)
	<b>7</b> List account number(s) here (optional)	

**Part I Taxpayer Identification Number (TIN)**

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

**Note:** If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

<b>Social security number</b>	
or	
<b>Employer identification number</b>	

**Part II Certification**

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the Instructions for Part II, later.

<b>Sign Here</b>	Signature of U.S. person	Date ▶ 8-1-18
------------------	--------------------------	---------------

**General Instructions**

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9).

**Purpose of Form**

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

*If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.*

**EXHIBIT C**  
Disbursement Requirements

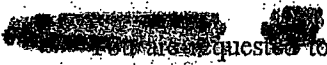
For each expenditure made in accordance with Section 5.02(A) of this Lease, the Tenant shall submit to the Landlord a requisition in the form appearing below (each a "Requisition"), with invoices for such expenditures attached. In no event shall the Tenant submit a Requisition more than once every thirty (30) days. All approved invoices will be paid by the Landlord directly to the vendors up to the aggregate amount provided in Section 5.02(A) within twenty business days from submission of all required information in accordance with the Lease and the Requisition. Landlord shall have no obligation to remit funds to cover expenditures in excess of the amount authorized in Section 5.02(A).

REQUISITION NO. \_\_

**TO:** Chemung County Industrial Development Agency,  
as Landlord (the "Landlord")

**FROM:** CAN-USA Sports LLC, as Tenant (the "Tenant")

Ladies and Gentlemen:

 is requested to disburse from funds allocated pursuant to Section 5.02(A) of the lease dated July 16, 2018 between the Landlord and the Tenant, (the "**Lease**"), a check or checks in the amounts, payable to the order of those persons and for the purpose of paying those costs set forth on Schedule A attached hereto. All capitalized terms used in this Requisition not otherwise defined herein shall have the meanings given such terms by the Lease.

I hereby certify that

1. I am an Authorized Representative of the Tenant;
2. the number of this Requisition is \_\_\_;
3. the items of cost set forth on Schedule A attached hereto are correct and proper under Section 5.02(A) of the Lease and each such item has been properly invoiced or incurred as a capital improvement in accordance with Section 5.02(A) and included in Schedule A, or attached as an additional exhibit, is a description of the improvement, the need for the improvement, the bids/estimates obtained for the improvement by at least two companies specializing in such work, services or equipment, and an invoice for such services;
4. none of the items for which this Requisition is made has formed the basis for any prior disbursement under the Lease;

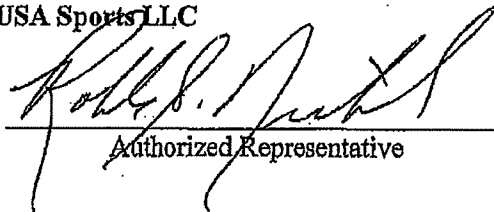
5. the payees and amounts stated in Schedule A attached hereto are true and correct and each item of cost so stated is due and owing;
6. each such item stated in Schedule A attached hereto is a proper charge and the services and/or equipment has been completed, delivered and installed at the Premises as required and as necessary for the item to be functional as intended;
7. I have no knowledge of any vendor's lien, mechanic's lien or security interest which should be satisfied or discharged before the payment herein requested is made or which will not be discharged by such payment;
8. if the payment herein requested is for an item of personalty, upon payment of the cost thereof such item of personalty will be subject to the Bill of Sale to Landlord.
9. the work or services performed or the personalty delivered and/or installed, for which reimbursement is being sought pursuant to this Requisition, is satisfactory in all respects.
10. all warranties, if any, associated with the work or services performed or the personalty delivered and/or installed run in favor of the both the Tenant and the Landlord and copies of such warranties are attached hereto.
11. each item for which payment under this Requisition is to be made when added to all other payments previously made in accordance with Section 5.02(A) hereof, will not exceed \$200,000. To date, inclusive of this Requisition, \$ \_\_\_\_\_ has been disbursed, in the aggregate, in accordance with Section 5.02(A).

The payees authorized to receive amounts under this Requisition have submitted the attached bills, invoices, and other documents evidencing and supporting this Requisition, upon which you are entitled to rely, provided the amounts requested in such bills, invoices, or other documents are no greater than those amounts listed for those payees in Schedule A to this Requisition. Such bills, invoices, or other documents will also indicate a method of payment for each payee, and you are authorized to provide payment by such listed method of payment.

DATED: \_\_\_\_\_

CAN-USA Sports LLC

By:

  
\_\_\_\_\_  
Authorized Representative

**EXHIBIT C**  
Disbursement Requirements

For each expenditure made in accordance with Section 5.02(A) of this Lease, the Tenant shall submit to the Landlord a requisition in the form appearing below (each a "Requisition"), with invoices for such expenditures attached. In no event shall the Tenant submit a Requisition more than once every thirty (30) days. All approved invoices will be paid by the Landlord directly to the vendors up to the aggregate amount provided in Section 5.02(A) within twenty business days from submission of all required information in accordance with the Lease and the Requisition. Landlord shall no obligation to remit funds to cover expenditures in excess of the amount authorized in Section 5.02(A).

**REQUISITION NO. \_\_**

**TO:** Chemung County Industrial Development Agency,  
as Landlord (the "Landlord")

**FROM:** CAN-USA Sports LLC, as Tenant (the "Tenant")

Ladies and Gentlemen:

You are requested to disburse from funds allocated pursuant to Section 5.02(A) of the lease dated July 16, 2018 between the Landlord and the Tenant, (the "**Lease**"), a check or checks in the amounts, payable to the order of those persons and for the purpose of paying those costs set forth on Schedule A attached hereto. All capitalized terms used in this Requisition not otherwise defined herein shall have the meanings given such terms by the Lease.

I hereby certify that

1. I am an Authorized Representative of the Tenant;
2. the number of this Requisition is \_\_\_;
3. the items of cost set forth on Schedule A attached hereto are correct and proper under Section 5.02(A) of the Lease and each such item has been properly invoiced or incurred as a capital improvement in accordance with Section 5.02(A) and included in Schedule A, or attached as an additional exhibit, is a description of the improvement, the need for the improvement, the bids/estimates obtained for the improvement by at least two companies specializing in such work, services or equipment, and an invoice for such services;
4. none of the items for which this Requisition is made has formed the basis for any prior disbursement under the Lease;

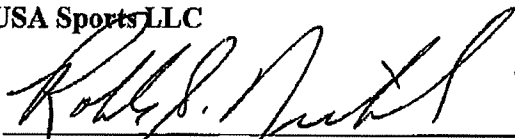
5. the payees and amounts stated in Schedule A attached hereto are true and correct and each item of cost so stated is due and owing;
6. each such item stated in Schedule A attached hereto is a proper charge and the services and/or equipment has been completed, delivered and installed at the Premises as required and as necessary for the item to be functional as intended;
7. I have no knowledge of any vendor's lien, mechanic's lien or security interest which should be satisfied or discharged before the payment herein requested is made or which will not be discharged by such payment;
8. if the payment herein requested is for an item of personalty, upon payment of the cost thereof such item of personalty will be subject to the Bill of Sale to Landlord.
9. the work or services performed or the personalty delivered and/or installed, for which reimbursement is being sought pursuant to this Requisition, is satisfactory in all respects.
10. all warranties, if any, associated with the work or services performed or the personalty delivered and/or installed run in favor of the both the Tenant and the Landlord and copies of such warranties are attached hereto.
11. each item for which payment under this Requisition is to be made when added to all other payments previously made in accordance with Section 5.02(A) hereof, will not exceed \$200,000. To date, inclusive of this Requisition, \$ \_\_\_\_\_ has been disbursed, in the aggregate, in accordance with Section 5.02(A).

The payees authorized to receive amounts under this Requisition have submitted the attached bills, invoices, and other documents evidencing and supporting this Requisition, upon which you are entitled to rely, provided the amounts requested in such bills, invoices, or other documents are no greater than those amounts listed for those payees in Schedule A to this Requisition. Such bills, invoices, or other documents will also indicate a method of payment for each payee, and you are authorized to provide payment by such listed method of payment.

DATED: \_\_\_\_\_

CAN-USA Sports LLC

By: \_\_\_\_\_

  
Authorized Representative

