

CITY OF TOLEDO, OHIO

STERLING PARK LEASE AGREEMENT

This Sterling Park Lease Agreement ("**Lease**") made and entered into this _____ day of _____, 2023, ("**Effective Date**") pursuant to authorization granted by Ordinance No.: _____, by and between the City of Toledo, Ohio, a municipal corporation ("**Lessor**" or "**Landlord**") and Toledo Celtics Rugby Inc. an Ohio non-profit corporation (referred to as "**Lessee**" or "**Tenant**").

WITNESSETH:

That in consideration of the covenants and conditions herein set forth, on the part of said Lessee to be paid, performed and observed, said Lessor does hereby remise, let and lease unto said Lessee the following described land situated in the City of Toledo, Lucas County, Ohio, to-wit:

The land, improvements, structures, appurtenances, fixtures resting upon and known as the Sterling Park Complex located in the City of Toledo, Ohio as further identified and legally described on Exhibit "A", a copy of which is attached hereto and incorporated herein by reference, including one rugby field, and one parking lot. (collectively referred to as "**Premises**")

TO HAVE AND TO HOLD the same with the appurtenances thereunto belonging unto said Lessee for and during the term of Five (5) years from the 1st day of _____, 2023 until the _____ day of _____, 2028. ("**Term**") Either party may terminate Lease for any reason so long as sixty (60) prior written notice of termination is given to the non-terminating party.

Subject to negotiation, Lessee shall have the right and option to renew Term of Lease for two (2) consecutive, further Terms of five (5) years, commencing on expiration of the original term hereof ("**Renewal Option**").

Renewal Option shall be exercised by giving Lessor written notice of Lessee's intent to exercise Renewal Option not less than ninety (90) days prior to expiration of Term, provided there exists no default in the covenants, agreements, terms and conditions on the part of the Lessee to be kept and performed or in the payment of Rent (hereinafter defined).

Lessee agrees to pay during the term a quarterly rent of ONE HUNDRED TWENTY FIVE AND 00/100 DOLLARS (\$125.00) per quarter payable at beginning March 1, 2023. ("**Rent**")

All Rent is to be payable to the Lessor, the City of Toledo and sent to the Department of Parks and Youth Services, Division of Parks and Recreation, 2201 Ottawa Drive, Toledo, Ohio 43606.

1. Lessor shall pay all real property taxes and assessments, natural gas, electricity, water, sewage, and storm water utilities and changes in connection to the Premises.
2. The Lessee shall maintain and keep Premises in good repair all at its own expense and at no additional expense to the Lessor. In addition, Tenant is responsible for all ground maintenance, including but not limited to mowing, trimming, spraying, fertilizing, aerating, rolling, irrigation, debris clean up, and trash collection. Lessor shall be responsible for the weekly collection and placement of trash receptacles at the edge of the parking lot. Tenant may be granted further maintenance rights on grounds so long as Tenant provides Landlord with prior written notice five (5) business days before commencing any proposed work.
 - (a) Lessor agrees to allow the relocation of existing bleachers on the Premises.
 - (b) Lessor agrees to install improvements on the Premises that will provide a single-entry point with a locked gate; notwithstanding the foregoing, Lessee acknowledges and understands that no duplication of keys to the gate is permitted and that Lessee shall store the key in a secure lockbox that Lessee shall not share the location or combination to said lockbox without the prior written consent of Lessor.
 - (c) Lessor shall have permission to build/place a storage shed on the premises for the purpose of securing equipment.
3. The Lessee shall save harmless and indemnify the Lessor, its officers, agents, and employees from and against all and any loss, damage, claims or expense whatsoever by reason of injury, including death, to any person or property arising in any manner or under any circumstances whatsoever from Lessee's use, occupancy, whether said injury or damage is suffered by Lessee's agents and/or employees or any other person whomsoever seeking to hold the Lessor or its officers, agents and/or employees liable. Further, the Lessee shall defend, indemnify and hold harmless the Lessor, its officers, agents and employees from and against any and all claims, losses, damages, and expenses of whatsoever kind and nature resulting from or which is incidental to the operation or use of any equipment by whomsoever used or operated, including latent and other defects and conditions and whether or not discernible by the Lessor.
4. Lessee shall maintain in effect throughout the term of this Lease comprehensive general liability insurance in an amount of not less than One Million Dollars (\$1,000,000.00) combined single limit per occurrence and endorsed to include premises/operations, products and completed operations. Said coverage may not exclude food services on the Premises leased hereunder, nor contractual, independent contractors, broad form property damage or personal collapse hazard exclusions. Lessor shall be named as an additional insured under Lessee's coverage as required above, it being understood and agreed as follows:
 - (a) Insurers shall have no right of recovery against the Lessor (including its agents and agencies as aforesaid), it being the intention of the parties that the insurance policies so affected shall protect both parties and be primary coverage for any and all losses covered by the above described insurance.
 - (b) The clause "other insurance provisions" in a policy in which the Lessor is named as an insured shall not apply to the Lessor.

5. Lessee shall cause to have issued to the Lessor a Certificate or Certificates of Insurance on the ACCORD Form 25 as evidence of insurance coverage in force. Said Certificate or Certificates shall bear the following cancellation notice: "Should any of the above described Certificates of Insurance be cancelled prior to the expiration date thereof, the issuing company shall mail thirty (30) days written notice of such cancellation to the named Certificate Holder."
6. All insurance coverages required to be maintained by Lessee shall be in such form and with companies which are acceptable to Lessor.
7. Limits of all insurance coverage required to be provided by Lessee shall be subject to renegotiation during the Term of this Lease.
8.
 - (a) The Lessee shall be responsible to insure (or self-insure) its contents and personal property against loss of fire or other peril as is normally covered by an "All Risk" insurance policy.
 - (b) Lessee shall waive any and every claim which arises or may arise in its favor and against the Lessor hereto during the term of this Lease or any extension or renewal thereof, for any loss of, or damage to, any of its property located within or upon, or consulting a part of, the Premises leased to the Lessee, whether or not covered by insurance. Said waivers shall be in addition to, and not in limitation of, any other waiver or release contained in this Lease with respect to any loss or damage to property. Inasmuch as the foregoing waiver is intended to preclude a claim by way of subrogation (or otherwise) to any insurance company (or any other person), Lessee hereto agrees to immediately give each insurance company which may have an interest in the Lease notice of said waiver and have such policy endorsed, if necessary, to prevent the invalidation of said insurance coverage by reason of said waiver.
 - (c) Lessee acknowledges and Lessor explicitly reserves the right to access and inspect the Premises at reasonable times. Lessee further agrees that Lessee will, at its own expense, immediately correct (or suspend if required) any deficiency in Lessee's use or operation of the Premises, as determined by the Lessor itself.
9. Premises shall be used for rugby or other recreational purposes consistent with park use. The Premises leased hereunder shall be open to the general public and Tenant may schedule events, including but not limited to rugby games, subject to Landlord's unilateral right to preempt any scheduled event within its reasonable discretion for any reason. Tenant acknowledges and agrees by execution of this Lease that it is aware and shall comply with Toledo Municipal Code Section 554.01 *et seq.*, and not engage in any unlawful discriminatory practices. Lessee agrees to use said Leased Premises only for the purposes set forth hereinabove, not to use or permit said Leased Premises to be used for any commercial purpose or for any purpose not compatible with those purposes. It shall be fully understood that there will be no possession or consumption of alcohol or illegal drugs and no illegal gambling (as defined in Toledo Municipal Code Chapter 517.02) permitted on the Leased Premises at any time. LESSOR may utilize the abutting improved parking lot and adjacent ballfield, for its programs without the payment of any membership dues, fees, rental, charge and/or other sum to Lessee. LESSEE shall at all times

comply with all applicable federal, state and local laws, ordinances, rules and regulations that may pertain to the Premises or its use of the Premises and LESSEE agrees that any violation of this covenant shall be grounds for immediate cancellation of this LEASE. LESSEE shall not commit, or suffer to be committed, any waste upon the Premises, or allow any public or private nuisance, nor shall LESSEE voluntarily create, cause, or allow to be created any debt, lien, charge or other encumbrance to be apportioned against the Premises leased hereunder.

10. Lessee shall furnish the City with an annual report thirty (30) days after the close of each year setting forth a general accounting of the operations of the Lessee, and without limiting the generality of the foregoing, such report shall include but not be limited to the following:
 - (a) The names and contact information for members of its governing body, its officers and the principal administrative staff officers of the Lessee.
 - (b) A statement as to the nature and extent of the activities and programs carried out the preceding year.
 - (c) Status of all insurance coverages required to be maintained by the Lessee hereunder.

Annual report is to be submitted to the Department of Parks and Youth Services, Division of Parks and Recreation, 2201 Ottawa Drive, Toledo, Ohio 43606.

11. Lessee shall further submit to the Lessor such other data, reports and copies of records and documents relating to the operation of the facility as the Lessor may require. Such data, reports, and copies of records and documents shall upon submission, become the property of the Lessor.
12. Tenant may not assign or sublease Premises without prior written consent of Landlord. Lessee, subject to the approval of Lessor, may set reasonable fees for the use of Premises and said fees shall be used for the maintenance and upkeep of the Premises.
13. The Lessee will not voluntarily create, cause or allow to be created, and assumes responsibility for any debt, lien, charge or other encumbrance to be apportioned against the property of the Lessor leased hereunder.
14. If Lessee shall fail to comply with any of the terms or conditions of this Lease or any notice given hereunder, or shall become insolvent or shall make an assignment for the benefit of creditors, or if any of its property be attached and attachment not promptly released, or if an execution be issued against it, or if a petition be filed by or against it., to have it adjudicated a bankrupt, or receiver shall be created or appointed to take charge of its assets, or if it shall desert or abandon said Premises for a period of thirty (30) days, then or at any time thereafter, Lessor may, at its option, enter into the Premises and take and retain possession thereof either with or without process of law.
- 14.1 Park Improvements to Premises. Tenant acknowledges and agrees that City is leasing Premises with the expectation that Premises are redeveloped and improved during the Term of Lease. Specifically, Tenant acknowledges and agrees by execution of Lease, but subject to Tenant's receipt of, or access to, sufficient public and/or private funding for its project(s), to design,

improve, administer, finance and manage, as applicable, all capital enhancements made to the Premises during the Term.

- 14.2. Approval of Plans. The Park Improvements constructed by the City and Tenant and shall be constructed in accordance with construction plans approved by the City and Tenant prior to commencement of construction. To the extent that the City and Tenant agree that Tenant shall construct any Park Improvements to the Premises, Tenant shall submit proposed construction plans for the construction of the Park Improvements to the City.
15. At the expiration of said term or sooner termination thereof as provided in this Lease, in pursuance of the conditions of the Agreements contained herein, the Lessee shall quit and deliver to the Lessor said Premises in a commercially reasonable condition.
16. It is the intent of the parties hereto that the Lessee shall be legally considered as “independent” and that neither it nor its employees shall, under any circumstances be considered servants or agents of the Lessor and that the Lessor shall at no time be legally responsible for any negligence on the part of said Lessee, its servants or agents, resulting in either personal or property damage to any individual, firm or corporation.
17. It is recognized by the parties hereto that the premises leased hereunder are currently tax-exempt as publicly-owned property used exclusively for public purposes and that the premises are tax-exempt pursuant to Ohio Revised Code §5709.10. It is the intent of the parties that the Premises shall retain their exclusively public, non-profit character during the term of this Lease. In the event that any taxes are levied or assessed on the Premises that cannot be deemed tax-exempt, Lessee agrees to pay all such taxes that may be levied and assessed during the term of this Lease or any extension thereof.
18. Any notice, demand or declaration required or which may be given pursuant to this Lease shall be in writing and shall either be served personally or sent by registered or certified mail, return receipt requested, with postage pre-paid and addressed as follows:

To Lessor: City of Toledo
Department of Parks and Youth Services
Division of Parks and Recreation
2201 Ottawa Drive
Toledo, Ohio 43606

Copy: City of Toledo
Department of Law
One Government Center, Suite 2250
Toledo, Ohio 43606
Attention: General Counsel

To Lessee: _____

19. Upon termination of this Lease, any fixtures or improvements constructed on or made to the Premises shall become the property of the Lessor. Equipment and merchandise used for the maintenance and operation of said shall be sold and the proceeds along with any monetary balance shall be used to pay any outstanding expenses for said operation.
20. LEFT INTENTIONALLY BLANK
21. This Lease contains the entire agreement between the parties and cannot be amended unless the amendment is in writing and approved and executed by both parties.

IN WITNESS WHEREOF, the parties hereto have affixed their signatures effective as of the date and year first above written.

FOR: CITY OF TOLEDO, a municipal corporation

Sign: _____
Wade Kapszukiewicz, Mayor

**FOR: TOLEDO CELTICS RUGBY CLUB
an Ohio non-profit corporation**

Sign: _____

Print: _____
President

Sign: _____

Print: _____
Secretary

ACKNOWLEDGEMENT BY LESSEE

STATE OF OHIO)
) SS:
COUNTY OF LUCAS)

Before me, personally appeared _____, President,
and _____, Secretary of the Toledo Celtics Rugby Club, Inc., an Ohio
non-profit, corporation for on behalf of the corporation.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official
seal this _____ day of _____, 2021.

Notary Public- State of Ohio

ACKNOWLEDGEMENT BY LESSOR

STATE OF OHIO)
) **SS:**
COUNTY OF LUCAS)

The foregoing instrument was acknowledged before me this _____ day of _____, 2021 by Wade Kapszukiewicz, Mayor of the City of Toledo, an Ohio municipal corporation, on behalf of the corporation.

IN TESTIMONY WHEREOF, I have hereunto affixed my name and official seal this _____ day of _____, 2021.

Notary Public – State of Ohio

APPROVED AS TO CONTENT:

APPROVED AS TO FORM:

Department of Parks and Youth Services

Department of Law

Exhibit A
Sterling Park Legal Description