

NEW PALTZ BMX (BICYCLE MOTOCROSS) AGREEMENT

THIS AGREEMENT is made between **TOWN OF NEW PALTZ**, a municipal corporation maintaining its offices at 1 Veterans Drive, P.O. Box 550, New Paltz, New York 12561,

Herein after referred to as the “Town”, and **THE NEW PALTZ BMX PROGRAM**

A domestic corporation maintaining its offices at Clearwater Rd, New Paltz NY, 12561 as New Paltz BMX

WITNESSETH:

WHEREAS, the Town has constructed and operates a bicycle racing track on lands owned by the Town located at Clearwater Road, and operates a program for the recreation of youth of the New Paltz community to engage in bicycle racing; and

WHEREAS, by resolution adopted May 25, 1995, the town authorized New Paltz BMX, Inc. to operate said program on behalf of the Town at the track facility; and

WHEREAS, it is in the best interest of the youth and residents of the Town of New Paltz to enter into this agreement:

IT IS HEREBY AGREED THAT:

1. **ESTABLISHMENT AND FEES:** The Town of New Paltz shall supervise and operate a dirt bicycle track at Clearwater Road and shall establish reasonable fees for the participants of the recreational activities conducted. Such fees shall from

time to time be established by resolution of the Town Board of the Town of New Paltz. New Paltz BMX, Inc. shall be responsible for the day to day operation of the facility, including collection of fees and recommendations for charges.

2. PROGRAMS: The Town hereby authorizes New Paltz BMX, Inc. to operate and New Paltz BMX, Inc. agrees to operate a program primarily for residents of the Town of New Paltz choosing to participate in dirt track bicycle racing and other related activities engaged in as part of the program.

New Paltz BMX, Inc. will provide a schedule of activities including, but not limited to competitive events, instructions, demonstrations and other related activities throughout the racing season pursuant to this Agreement which said activities may include the conduct by New Paltz BMX, Inc. of awards ceremonies in the course of and/or at the end of each racing season. The activities of the New Paltz BMX, Inc. conducted pursuant to this agreement shall hereinafter be referred to as the "Program.

3. TERMS: The term of this agreement shall take effect as of the 1st day of January, 2015 and shall terminate on the 31st day of December, 2015.

Notwithstanding the initial term of this agreement, it is agreed that the Town, at its sole discretion, shall have the option of extending by resolution this agreement for additional periods of one (1) year each provided however, that at any time, the Town

shall have the right to terminate this agreement immediately upon written notice to BMX, Inc. Upon the expiration of the initial term or of extended term or in the event that this agreement is terminated earlier pursuant to its terms, New Paltz BMX, Inc., within thirty (30) days next following the date of termination fixed in said notice, shall flatten the track and shall remove from the site any and all equipment and/or temporary buildings or other appurtenances as for instance, starting gates, barriers lights (exclusive of poles) owned or acquired solely by New Paltz BMX, Inc., provided that their Removal will not do physical damage to the realty, in which event such appurtenances Shall be considered fixtures and shall remain property of the Town.

4. New Palz BMX, Inc. shall submit to the Town Board of the Town of New Paltz for approval its constitution and by-laws, the rules and regulations promulgated by New Paltz BMX, Inc. for the conduct of the program, a schedule of the proposed registration fees to be charged to participants in the program, and a schedule of the proposed activities and events to be conducted as part of the program pursuant to this agreement.

5. New Paltz BMX, Inc. shall provide to the Town of New Paltz not later than December 31st in each year during which this agreement is in effect an annual report of the programs and activities which were conducted during the year, including the number of participants, a treasurer's report, fees charged and any other

related accomplishments or matters connected with the facility.

6. That at all times this agreement shall be in full force and effect, New Paltz BMX, Inc., shall be under the sanction of USA BMX and all events to be conducted upon the premises shall be conducted in strict conformity with the rules and other requirements of USA BMX, existence as of the date of this agreement and/or as same are from time to time amended, including but not limited to all rules related to safety and safety equipment, clothing, gear and rider conduct.

7. Consistent with the purposes for which this program is created, and subject to all of the provisions of this agreement, New Paltz BMX, Inc., shall have the sole option of operating its own concession stand or bringing in a privately owned concession operator, such concession to be operated in proximity to the track and during such hours as the track events are actually in progress. Whether such concession shall be operated by New Paltz BMX, Inc., or by privately owned concession operator (in either event referred to in this agreement as Concessionaire), the following rules, regulations and requirements shall apply:

a. Purpose of Concession. The principal purpose of the privilege granted hereunder is to have available food and beverage service for sale for the use and benefit of the patrons of the track and for no other purpose.

b. Supervision. The town shall maintain complete control and supervision at all times over the premises and the Concessionaire shall abide by these rules, regulations and requirements. For purposes of these provisions, New Paltz BMX, Inc., is hereby designated as the representative of the Town and it shall have full authority to act on behalf of the Town in the supervision of the performance of this agreement by any private Concessionaire.

c. Care of Premises. The Concessionaire shall not sell nor distribute any products contained in glass containers. The Concessionaire will keep the concession stand and area surrounding it set aside for food consumption in a clean, sanitary, and orderly condition at all times. The grounds adjacent to the concession for a distance of one hundred feet (100) in every direction shall be kept free of all paper, cans, food scraps, rubbish and debris. The Concessionaire shall provide and maintain containers and dispose of all garbage associated with food and other preparation in accordance with the recycling regulations of the Town of New Paltz. The Concessionaire shall cause all refuse to be removed from the premises at the conclusion of each event or function.

d. Quality Standard. The Concessionaire shall provide for the public at the concession stand food, drink, and service of high standards, equivalent to quality and price to that generally furnished to the public at similar places of comparable size and scope. The Concessionaire shall obtain from the Ulster County Health

Department a permit allowing the Concessionaire to operate the concession stand. The Concessionaire shall prominently display a copy of the permit at the concession stand and shall furnish a copy of the permit to the Town Clerk before the Concessionaire may commence operation of the concession stand. The Concessionaire shall comply with all rules and regulations of the Ulster County Health Department relating to the service of food and beverage.

e. Utilities. Utilities, if any, used by the Concessionaire shall be at the expense of the Concessionaire. The Concessionaire shall promptly bring to the attention of the Town any defects or problems associated with its activities conducted at the premises.

f. Supervision of Personnel. The Concessionaire shall give personal supervision and direction to the operation of the concession stand and, when absent, keep competent personnel in charge and employ experienced and courteous help.

g. Assignment. No privately owned concession operator shall assign nor sublet the concession hereby granted, in whole or in part, without permission of the Town.

h. Compensation. No compensation or fee shall be payable by the Town to the Concessionaire or by the Concessionaire to the Town for the privilege granted by this agreement.

i. Indemnity. The Concessionaire does hereby release and agrees to indemnify,

defend, and same harmless the Town from and against all claims, actions, causes of action, demands, judgments, costs, expenses, and all damages of every kind and nature, incurred by or on behalf of any person or corporation whatsoever, predicated upon injury to or death of any person or loss of or damage to property of whatever ownership, including the parties to this agreement and their agents and employees, and in any manner arising out of or connected with, directly or indirectly, the operation or use of the premises pursuant to this agreement. Prior to the operation of any concession at the premises, the Concessionaire shall deliver to the Town Clerk, on behalf of the Town, a comprehensive liability insurance policy, including public liability and property damage, issued by an insurance company authorized to do business in the State of New York, acceptable to and approved by the Town, covering the operations hereunder to the extent of one million (1,000,000.00) Dollars. A certificate evidencing the existence thereof, shall be delivered to the Town Clerk not later than the commencement of concession activities at the premises. Such policy shall contain a valid provision or endorsement that the policy may not be cancelled, terminated, changed, nor modified without giving prior notice thereof to the Town Clerk.

j. Risk of Loss. The Concessionaire shall assume all risks of loss, damage, or injury to all property and inventory of the Concessionaire upon the premises

and shall maintain insurance covering such risk or loss in amounts and at all times during the term of this agreement satisfactory to the Concessionaire. Having so represented and agreed, the Concessionaire does hereby release and save harmless the Town from any and all claims, demands, or damages of every kind and nature arising to property, equipment and inventory of the Concessionaire.

k. Acknowledgement of Agreement. As part of its obligations under this agreement, New Paltz BMX, Inc. agrees in the event that any concession activities at the premises are to be conducted by a privately owned concession operator, that New Paltz BMX, Inc. shall deliver to such privately owned concession operator a true and exact copy of the requirements of this agreement provided for in this section so as to provide notice of these requirements to such privately owned concession operator and shall deliver to the Town Clerk written acknowledgement and acceptance of these terms

8.Exclusiveness of Program. The Program operated by New Paltz BMX pursuant to this agreement shall at all times remain separate and distinct from any other projects, programs, or activities of New Paltz BMX.

9.Appropriation. The Town shall appropriate the sum of Nine Hundred Forty Five (\$945.00) Dollars to be expended by New Paltz BMX for related operating costs , appropriate insurance premiums and other expenses incurred by New Paltz BMX for the purposes of the Program during the term of this agreement. The funds so appropriated will be expended only after an audit of properly itemized and certified claims on forms provided by the Town Supervisor within the amount so appropriated. The Town Board of the Town may refuse to expend a portion of the appropriated sum for any purpose not deemed to be a proper expense of the Program.

10.Restriction On Use Of Funds. No monies appropriated by the Town for the operation of the Program of New Paltz BMX may be expended in connection with any other programs of New Paltz BMX, nor may supplies nor equipment acquired with funds appropriated by the Town be used in connection with any other program of New Paltz BMX.

11. Report. No later than December 31, 2015 BMX shall provide the Town Board of the Town with the report on the conduct and activities of the Program during the term then concluded.

12. Personal Liability. The officers and directors of New Paltz BMX who execute this agreement on its behalf accept full and personal liability for the operation of the Program and the expenditure of the funds appropriated herein.

13. Liability. New Paltz BMX assumes all risks incident to the operation of the Program and shall indemnify and hold the Town harmless from all claims arising from any accident, injury or damage whatsoever to any person or property occurring during the term of this agreement and against all expenses and liability incurred in connection with any such claim or action or proceeding brought thereon. New Paltz BMX shall obtain and carry in full force and effect during the term of the agreement and promptly file evidence thereof with the Town Supervisor for a good and sufficient policy of insurance including coverage of bodily injury, liability and property damage written by an insurance company or companies qualified to do business in the State of New York. The amount of such insurance shall be not less than One Million (\$1,000,000.00) Dollars for liability due to any occurrence.

14. **Facility Usage Surcharge Addendum:** A 10% surcharge of Non-New Paltz resident youth, will apply. Non-residents include all registrants who do not reside in either the Town or Village of New Paltz, street addresses are to be adhered to and will be verified by the Town of New Paltz. Surcharge includes practices and races during the regular season of programming. Surcharge fees are to be forwarded to the Town of New Paltz.

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed by the respective officers on or after the date of Town Board Approval.

Town Board Approval Date _____

THE TOWN OF NEW PALTZ

Date _____

BY: Susan Zimet, Supervisor

Attest:

Date _____

Rosanna Mazzaccari, Town Clerk

NEW PALTZ BMX

Date _____

By: Amy Gigliuto President

