

## INDEPENDENT CONTRACTOR AGREEMENT

THIS INDEPENDENT CONTRACTOR AGREEMENT (hereinafter referred to as "Agreement") made this \_\_\_\_\_ day of \_\_\_\_\_, 2022 by and between the Village of Wellington, (hereinafter referred to as "Wellington") whose address is 12300 Forest Hill Boulevard, Wellington, FL 33414 and \_\_\_\_\_, (hereinafter referred to as "Contractor") whose address is \_\_\_\_\_:

Contractor is a:

- ☐ Sole Proprietor,
- ☐ Corporation existing under the laws of \_\_\_\_\_,
- ☐ Limited Liability Company existing under the laws of \_\_\_\_\_,
- ☐ Partnership existing under the laws of \_\_\_\_\_,
- ☐ Limited Liability Partnership, existing under the laws of \_\_\_\_\_,

Contractor's Social Security Number is \_\_\_\_\_ (if an **individual**) or Federal Tax Identification Number is \_\_\_\_\_ (if an **entity**).

Wellington agrees to hire Contractor as an Independent Contractor to perform the services set forth herein, and therefore, both parties acknowledge and agree to the following terms and conditions:

### **(1) Recitals:**

The above recitals are true and correct and are incorporated herein by reference.

### **(2) Services:**

Contractor agrees to provide Wellington with the following services (the "Services"):

*Tennis Programming*

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### **(3) Service Dates:**

Contractor shall provide the above Services to Wellington from 10/1/2022 through 9/30/2027.

### **(4) Relationship:**

Contractor understands that his/her/its relationship with Wellington is that of an Independent Contractor and ***not*** an employee or agent of Wellington. Services provided by Contractor are not and shall not be construed to be an integral part of Wellington's governmental functions. The relationship between Wellington and Contractor is dependent upon the services needed by Wellington at any given time. Nothing contained in this Agreement shall be deemed or construed as creating any partnership, joint venture, or other type of business relationship between Contractor and Wellington. Contractor is responsible for the actions, display, and conduct of all employees, officers, agents, and representatives providing Services to Wellington on behalf of Contractor.

### **(5) Manner of Performance:**

- a. Contractor warrants that he/she is fully skilled and experienced in the above described Services, and that Wellington shall rely upon him/her/it to perform the Services lawfully and in a manner *consistent* with the highest professional standards and ethical conduct. Contractor warrants that he/she/it holds any and all

applicable licenses/certifications as required by law.

- b. Wellington reserves the right to enter and observe any program at any time.
- c. ***Program Evaluations are mandatory*** for each program and session and shall be returned to the appropriate Programs Coordinator immediately following ***each*** program's session. Program Evaluations and observations are used to provide first-hand knowledge of programs to the public and to ensure agreed upon services are provided, safety is maintained, standards are met, and ideal results are achieved by Contractor. Wellington reserves the right to waive this requirement, in its sole discretion, when deemed appropriate by the event coordinating Manager.
- d. Failure by Contractor to provide the quality of services or job performance expected by Wellington shall be cause for termination of this Agreement. Wellington may, at its discretion, permit Contractor a reasonable opportunity to correct Contractor's deviation from standards.
- e. The services to be provided by Contractor under this Agreement are unique to Contractor and may not be provided by any other individual or entity (on behalf of Contractor) without prior written approval from Wellington.
- f. ***Professionalism.*** Though the Contractor's relationship with Wellington is strictly that of an independent contractor and not an employee or agent of Wellington, Contractor acknowledges that it is providing the Services as part of Wellington's programs. Contractor agrees that it, its employees, officers, agents, and representatives shall conduct themselves in a professional manner at all times. Any offensive or abusive conduct or language toward Wellington, its representatives, or to the public by Contractor or its representatives may result in the immediate termination of this Agreement.

#### **(6) Facilities:**

- a. Wellington will provide Contractor with a sufficient area in which Contractor may perform the Services agreed to under this Agreement. Due to the multiple uses and functions within the facilities, rooms are subject to change at any time and are not guaranteed to be consistent. ***Wellington reserves the right to relocate an activity in its sole discretion.***
- b. Contractor is responsible for cleaning the area and leaving it in the condition it was found. Contractor must seek permission any time food or drink will be served.
- c. Storage depends on the availability of space and is not guaranteed. If storage space is available, Wellington will not be held responsible for any personal equipment, supplies, or for anything left behind. Items left after an activity will be treated as trash and may be discarded.

#### **(7) Contractor's Responsibilities:**

Under this Agreement, Contractor must:

- a. Provide safe, professional, and positive instruction to participants of Wellington's youth, adult, and senior programs, classes, and other activities as provided in this Agreement.
- b. Provide Wellington with a detailed program plan in the form of a Program Worksheet (provided by Program Coordinator) for all programs provided by Contractor. Program Worksheets must include, at a minimum, the following information: specific session dates/days (including skip days, holidays, make-ups, etc.), times, minimum/maximum number of students, ages, gender, instructor contact information, and any specific program requirements or details. Program Worksheets will be due ***on or prior*** to the date

set by Program Coordinator. ***Failure to submit information by designated deadline will result in late processing and is not guaranteed to be processed at all.***

- c. Prepare promotional announcements and materials for programs/services provided by Contractor. ***Promotional materials must be submitted to Wellington in electronic form, and both parties must review and approve the materials before they are displayed.*** It is the responsibility of Contractor to ensure his/her flyers/promotional materials are correct, and in stock. Contractor accepts all responsibility for misprints. All additional advertising must also be approved by Wellington. Contractor shall not utilize Wellington's logo for any purpose without obtaining prior written approval from Wellington.
- d. Maintain up-to-date rosters and ensure that all program participants have completed the proper registration process ***before*** participating in the program. Individuals who have not completed Wellington's registration process of paying the program fee and signing the required program/facility waiver ***shall not*** be permitted to participate in any portion of the program.
- e. Monitor and record the attendance of all participants for each program. Class Attendance Worksheets will be provided by Programs Coordinator or Facility Program Monitor upon request and must be submitted to Wellington upon the conclusion of each program session. ***It is the responsibility of Contractor to request the Class Attendance Worksheets for each program.***
- f. Inspect the activity site prior to beginning each class. If unsafe conditions are found, immediately report the conditions to Wellington and postpone the program until further direction from Wellington.
- g. Immediately report all accidents or injuries to Wellington. A detailed incident report must be completed by Contractor and submitted to the coordinator/manager within 24 hours of the incident.
- h. Comply with all of Wellington's "Program Policies" and any future policies that are developed and are communicated to Contractor either verbally or in writing.

**(8) Non-Exclusive Relationship:**

Neither Contractor nor Wellington has an exclusive relationship with the other. Contractor can perform the above described Services for another person or business as long as it does not interfere with Contractor's services for Wellington. Likewise, Wellington reserves the right to contract another Contractor for the same or similar services based on the needs of Wellington and the community.

**(9) Compensation:**

Wellington agrees to pay Contractor for performance of the above-described services on a per-program basis, and not on any other basis. Wellington agrees to pay Contractor at the rates set forth in EXHIBIT "A," which is attached hereto and incorporated herein.

**(10) Expenses:**

Contractor is responsible for all costs and expenses associated with performing the Services under this Agreement, including all background and fingerprinting costs.

**(11) Taxes:**

- a. Contractor is solely responsible for the reporting and payment of all federal, state, and or local self-employment or income taxes, licensing fees, or any other taxes or assessments levied by any governmental authorities on any earnings made as a result of Contractor's independent contractor relationship with Wellington.

- b. Contractor agrees to hold Wellington harmless for the payment of any and all federal, state, and or local self-employment or income taxes, or other assessments levied by any governmental authorities on any earnings made as a result of Contractor's independent contractor relationship with Wellington.
- c. In the event (1) that any state or federal governmental agency or court determines that the relationship between Wellington and Contractor is one of employment rather than independent contractor, and (2) as a result of that determination, Wellington is required to pay social security or unemployment compensation taxes or any other taxes, or any penalty with respect to Contractor for any period of time prior to that determination, Contractor agrees to reimburse Wellington to the extent of any refund to Contractor of taxes previously paid by Contractor as a result of that determination.

**(12) Insurance:**

Wellington is not liable for or responsible for the provision of workers' compensation or unemployment compensation insurance for the benefit of Contractor or any of Contractor's sub-contractors, employees, or agents, if any. Further, to the extent required by Wellington's Risk Management Department, Contractor may be required to provide Wellington with copies of his/her/its General Liability Insurance, Professional Liability Insurance, Automobile Liability Insurance for hired and non-hired vehicles and such other insurance as is required by Wellington and with such deductibles as the Risk Management Department requires.

**(13) Indemnification:**

- a. Contractor understands and agrees that with regard to Contractor's performance of any and all Services pursuant to this Agreement, Contractor assumes full responsibility for compliance with all federal, state, and local laws, rules, regulations, codes, directives, guidelines, and ordinances that may govern or regulate such services, Contractor's status, and Contractor's employment relationship with others.
- b. In consideration for this Agreement and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Contractor hereby releases, indemnifies, and holds harmless Wellington, its officers, agents, elected officials, and employees ("Indemnified Parties") from and against all claims, damages, actions losses, and expenses including, without limitation, claims by or on behalf of Contractor, its employees, officers, agents, and representatives, for personal injury, illness, death, medical bills or any other type of injury or damage, together with attorneys' fees, at both the trial and appellate level, arising out of, resulting from, or relating to Contractor's provision of the Services pursuant to this Agreement, or Contractor's violation of any rule, law, code, or ordinance, including applicable Wellington policies, emergency order, or federal, state, or local health guideline with respect to its provision of the Services under this Agreement. Contractor acknowledges, understands, and agrees that this provision is binding upon it, as well as its successors, assigns, and legal representatives. Nothing contained herein shall be construed or interpreted as consent by Wellington to be sued by third parties, nor as a waiver of its sovereign immunity beyond the waiver or monetary limits provided in section 768.28, Florida Statutes, nor as a waiver of any defense available to it under Florida law. The provisions of this paragraph shall survive the termination of this Agreement and are in addition to, and supplemented by, the Release, Indemnification, and Hold Harmless Agreement Relating to Coronavirus/COVID-19 attached as EXHIBIT "B" and incorporated herein.

**(14) Background Investigation:**

- a. Contractor attests that Contractor and all employees, officers, agents, representatives, and assistants providing the Services to Wellington on behalf of Contractor have not previously been accused of, charged with, or convicted of any crimes or offenses involving sexual misconduct, improprieties, or other offenses involving immoral or indecent behavior or sexual crimes with work or non-work related matters.

- b. Wellington reserves the right to contact Contractor's previous clients or employers for pertinent background information.
- c. Wellington requires an official criminal investigative background screening for all independent contractors and all individuals providing the Services on their behalf. Background requirements are ***mandatory*** and must remain up to date as long as the Services are provided. Contractors with expired records are subject to suspension or termination of Services.
- d. ***All*** employees, officers, agents, representatives, or assistants providing the Services to Wellington on behalf of Contractor must be approved by Wellington and undergo Wellington's background investigation process and must remain in good status as long as they are providing the Services to Wellington. Contractor is responsible for all background investigative processing fees.
- e. This Agreement shall not become effective and Contractor is prohibited from commencing any Services under this Agreement for Wellington until all requirements for background screenings are completed.
- f. Contractor will adhere to all requirements by the Florida Department of Children and Families.

**(15) Termination:**

Contractor may terminate this Agreement upon providing 15 days' written notice to Wellington. Wellington reserves the right to cancel this Agreement at any time for any reason upon providing Contractor with 24 hours' notice. All sums due to Contractor at the time of termination will be paid by Wellington in the ordinary course of business. Upon termination of this Agreement, Contractor agrees to promptly return all property belonging to Wellington.

**(16) Notice:**

Whenever any notice is required to be given under this Agreement, such notice shall be in writing and addressed as set forth in this section. Notice shall be either (a) hand delivered or (b) mailed by registered or certified mail (postage prepaid), return receipt requested. Notice shall be deemed to have been duly delivered when personally delivered, or when delivered by U.S. Mail or courier service, as shown by the return receipt.

If to Wellington:                      Village of Wellington  
    12300 Forest Hill Boulevard  
    Wellington, FL 33414  
    Attn: Department Director

If to Contractor:                      To the address set forth at top of this Agreement

**(17) Construction and Severability:**

Wellington and Contractor agree that this Agreement shall be construed as if the parties jointly prepared it so that any uncertainty or ambiguity shall not be interpreted against any one party and in favor of the other. If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force and effect.

**(18) Governing Law and Venue:**

This Agreement shall be governed in accordance with the laws of the State of Florida, and venue for any action enforcing the terms of this Agreement shall be Palm Beach County, Florida.

**(19) Entire Agreement:**

This Agreement constitutes the entire agreement between the parties in connection with the subject matter of this

Agreement and supersedes any and all prior agreements, negotiations, discussions, whether oral or written, between the parties. There are no statements, promises, representations, warranties, or agreements between the parties in connection with the subject matter hereof except as specifically set forth herein.

**(20) Modification of Agreement:**

This Agreement may be modified only by a written amendment executed by both parties to the Agreement.

**(21) Assignment; Binding Effect:**

This Agreement may not be assigned without the consent of the non-assigning party. This Agreement is binding upon the parties hereto, their heirs, successors, and assigns.

**(22) Scrutinized Companies:**

If Contractor is a corporate entity, Contractor certifies pursuant to sections 215.4725 and 287.135 of the Florida Statutes, that it, its affiliates, suppliers, subcontractors, and consultants who will perform or benefit hereunder, are not on the Scrutinized Companies that Boycott Israel List and are not participating in a boycott of Israel. If this Agreement is valued greater than \$1 million, Contractor further certifies pursuant to sections 215.473 and 287.135, Florida Statutes, that it, its affiliates, suppliers, subcontractors, and consultants who will perform or benefit hereunder, (a) have not been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; and (b) do not have business operations in Cuba or Syria. Submitting a false certification shall be deemed a material breach of this Agreement. If Wellington determines, using credible information available to the public, that Contractor has submitted a false certification, Wellington may terminate this Agreement and pursue the remedies set forth in section 287.135, Florida Statutes, and any other available remedies.

**(23) Counterparts:**

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

**(24) Compliance with F.S. 448.095:**

Wellington requires all contractors and subcontractors to register with the U.S. Department of Homeland Security's E-Verify system to verify the work authorization status of their newly hired employees. All contractors performing work for Wellington are required to provide proof of registration with the E-Verify System and must provide an affidavit stating that each subcontractor it hires does not employ, contract with, or subcontract with an unauthorized alien.

**(25) Cooperation with Inspector General:**

Pursuant to Ordinance No. 2011-009, Palm Beach County has established the Office of the Inspector General, which is authorized to review Wellington contracts and records. Contractor shall fully cooperate with the Inspector General and shall provide access to the records in the manner provided herein for Wellington to inspect such records. Failure to cooperate with the Inspector General, or interfering with or impeding any investigation of the Inspector General, shall be a violation of County Ordinance 2009-049 and shall be punishable pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

**(26) Non-Discrimination:**

Contractor shall not unlawfully discriminate against any person in providing the Services or in its use or expenditure of funds in fulfilling its obligations under this Agreement. Contractor shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA) in the course of providing the Services, including Titles I and II of the ADA (regarding nondiscrimination on the basis of disability), and all applicable regulations, guidelines, and standards. In addition, Contractor shall take affirmative steps to ensure

nondiscrimination in employment against disabled persons. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruiting advertising, layoff, termination, rates of pay, other forms of compensation, terms and conditions of employment, training (including apprenticeship) and accessibility. Contractor's decisions regarding the delivery of the Services under this Agreement shall be made without regard to or consideration of race, age, religion, color, gender, sexual orientation, gender identity, gender expression, national origin, marital status, physical or mental disability, political affiliation, or any other factor which cannot be lawfully used as a basis for service delivery.

**(27) Sexual Abuse and Harassment:**

Wellington prohibits sexual abuse and harassment of any kind. Anyone who engages in abusive or harassing conduct will be immediately removed from the premises and reported to the appropriate authorities.

**(28) Drugs and Alcohol:**

The illegal use, possession, sale, manufacture, or distribution of drugs or alcohol is prohibited on Wellington property. Any misuse of drugs or alcohol by the Contractor, its employees, officers, agents, or representatives in connection with this Agreement is prohibited and may be reported to the appropriate authorities.

**(29) Third Party Beneficiaries:**

No provision of this Agreement is intended to, or shall be construed to create any third-party beneficiary or to provide any rights to any person or entity not a party to this Agreement, including but not limited to any citizen or employee of Wellington or Contractor.

**(30) Waiver:**

The failure of Wellington or Contractor at any time to require performance by the other party of any term of this Agreement shall in no way affect the right of Wellington or Contractor thereafter to enforce same. Nor shall waiver by Wellington or Contractor of any breach of any term of this Agreement be taken or held to be a waiver of any succeeding breach of such term or as a waiver of any term itself. To be effective, any waiver shall be in writing and signed by the party granting such waiver. Any such waiver shall be limited to the particular right so waived and shall not be deemed to waive any other right under this Agreement.

**(31) Effective Date:**

This Agreement shall become effective upon execution by all parties and compliance with the obligations set forth in paragraph fourteen (14) above. No services shall be provided prior to the Effective Date.

**(32) Headings:**

The headings contained in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement.

[Signatures on Following Page]

**IN WITNESS WHEREOF**, the parties have executed this Agreement on the day and year first written above.

**CONTRACTOR:** \_\_\_\_\_

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

**Print Name:** \_\_\_\_\_

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

**VILLAGE OF WELLINGTON**

By: \_\_\_\_\_  
Laurie Cohen, Village Attorney

By: \_\_\_\_\_  
Anne Gerwig, Mayor

Attest: \_\_\_\_\_  
Chevelle Addie, Wellington's Clerk



**EXHIBIT A**  
Independent Contractor Agreement  
Compensation Schedule

This is an attachment to the Independent Contractor Agreement with

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Payment shall be made as follows:

Independent Contractor receives:

- Racquet re-string @ \$15 each
- Match Coaching Fee @ \$50 per match
- Ladies Team Practice @ \$85 each for Instructor
- Ladies Team Practice @ \$110 each for Lead Coach

Independent Contractor receives \_\_\_\_\_% of the resident rate revenue collected from each participant for tennis programs they instruct. Junior's Programs may be allocated between all independent contractors who participate in a given session.

## EXHIBIT B

### Release, Indemnification, and Hold Harmless Agreement Relating to Coronavirus/COVID-19

The novel coronavirus, COVID-19, has been declared a worldwide pandemic by the World Health Organization. COVID-19 is a new virus, highly contagious, and despite reasonable precautions, may be transmitted. COVID-19 is believed to spread mainly from person-to-person through respiratory droplets produced when an infected person coughs or sneezes. As a result, federal, state, and local governments and federal and state health agencies recommend social distancing and have, in many locations, prohibited the congregation of groups of people.

Contractor is aware of the contagious nature of COVID-19 and has voluntarily chosen to provide the Services contemplated by the Independent Contractor Agreement ("Agreement"). Contractor knowingly acknowledges that by providing the Services, it is exposing itself, its officers, agents, employees, representatives and those with whom they come into contact, to the risk of becoming infected with COVID-19, or Multisystem Inflammatory Syndrome (MIS-C), which may result in serious personal injury, illness, permanent disability, and death. Contractor understands that the risk of becoming infected with COVID-19 or MIS-C may result from the actions, negligence, and failures to act of Contractor and others, including but not limited to the Village of Wellington ("Wellington") and others with whom Contractor comes into contact in providing the Services.

In consideration for being permitted to provide the Services during the COVID-19 pandemic and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Contractor hereby releases, indemnifies, and holds harmless Wellington, its officers, agents, elected officials, and employees ("Indemnified Parties") from and against all claims, damages, actions, losses, and expenses including, without limitation, claims for personal injury, illness, death, medical bills, or any other type of injury or damage, and attorneys' fees, at both the trial and appellate level, arising out of, resulting from, or relating to Contractor, its officers, agents, employees, or representatives contracting, spreading, or becoming ill from COVID-19 or MIS-C as a result of providing the Services, or its violation of any rule, law, code, or ordinance, including applicable Wellington policies, emergency order, or federal, state, or local health guideline with respect to the Services.

Contractor acknowledges, understands, and agrees that all provisions of this Release shall be binding upon it, as well as its successors, assigns, and legal representatives. Contractor's agreement to indemnify and hold harmless the Indemnified Parties includes attorneys' fees and costs actually incurred thereby, regardless of whether or not suit is brought or any appeal is taken therefrom. Contractor acknowledges and agrees that neither Wellington nor any of the other parties indemnified or held harmless herein shall ever be deemed an insurer against any loss, damage, injury, illness, or death occurring in or with respect to providing the Services under the Agreement. Contractor expressly agrees that the foregoing Release is intended to be as broad and inclusive as permitted by law.

**CONTRACTOR:** \_\_\_\_\_

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

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_  
(if Contractor is a corporate entity)

Date: \_\_\_\_\_