

Sportime

ORIGINAL AGREEMENT

DATED FEB 11, 2002

Portmanteau

Portmanteau words

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LICENSE AGREEMENT

AGREEMENT this 14th day of February, 2002, by and between the Village of Mamaroneck, a municipal corporation (hereinafter "the Village") with offices at 123 Mamaroneck Avenue, Mamaroneck, New York 10543 and Island Tennis, L.P. d/b/a/ Sportime (hereinafter "Licensee") a New York limited partnership with offices at 320 Abrahams Path, P.O. Box 778, Amagansett, New York 11930.

WHEREAS, the Village owns a certain parcel of land known as Harbor Island Park; and

WHEREAS, the Village wishes to license a portion of Harbor Island Park for multi-purpose recreational facilities to serve residents of the Village of Mamaroneck and others; and

WHEREAS, Island Tennis, L.P. d/b/a Sportime has responded to the Village's request for proposals to operate such a multi-purpose recreational facility at Harbor Island Park, which the Village Board finds to be a proposal which will best serve the needs of the Village; and

NOW THEREFORE, it is

AGREED that in consideration of the covenants and agreements contained herein which the parties acknowledge to be good and sufficient consideration, as follows:

1. **TERM** : This license shall be for a term ("the Term") of seventeen (17) years and four (4) months, unless sooner terminated as provided for herein, commencing on the 1st day of May, 2002 and ending on the 31st day of August 2019. Each License Year (hereinafter "License Year") for the purpose of calculating the payment of license fees as provided for herein, shall run from the 1st day of May (commencing with May 1, 2002) to the next following 31st day of August, during each year of the term of this license agreement.
2. **LICENSED PREMISES**: The Village hereby grants an exclusive license to Licensee to use, subject to the terms and conditions of this agreement, the Premises which consist of that portion of Harbor Island Park described in Schedule "A" annexed hereto, to operate a recreational facility ("the Facility").
3. **LICENSE FEE**:
(A) There shall be an annual license fee (hereinafter "the License Fee") equal to ten (10%) percent of gross sales, as defined herein below, but in no event shall the License Fee in each License Year fall below the following minimum guaranteed license fee

payment (hereinafter "Minimum Annual License Fee"):

Year 1	\$ 200,000.00
Year 2	\$ 204,500.00
Year 3	\$ 209,090.00
Year 4	\$ 213,771.00
Year 5	\$ 218,547.00
Year 6	\$ 223,418.00
Year 7	\$ 253,386.00
Year 8	\$ 258,454.00
Year 9	\$ 263,623.00
Year 10	\$ 268,895.00
Year 11	\$ 274,273.00
Year 12	\$ 279,759.00
Year 13	\$ 285,354.00
Year 14	\$ 291,061.00
Year 15	\$ 296,882.00
Year 16	\$ 302,820.00
Year 17	\$ 308,876.00

(B) Licensee shall pay the Minimum Annual License Fee in twelve (12) equal monthly installments, payable on the first day of each month beginning September 1, 2002. When 10% of gross sales (during any License Year) is a number greater than the Minimum Annual License Fee for that License Year, Licensee shall pay the Village the balance of the License Fee in an amount by which 10% of annual gross sales exceeds the Minimum Annual License Fee already paid for that License Year. The balance of the License Fee in each License Year, if any, shall be paid within one-hundred and twenty (120) days of the final day of each License Year (including the last License Year), accompanied by audited financial statement required by Section 12 (D) below.

(C) For the purpose of this License Agreement gross sales shall mean all revenue of whatever nature or kind derived from the operation of the Facility (without deduction or set off of any kind), including but not limited to fees for use of any portion of the Premises whether such fees are charged hourly, daily, weekly, monthly, annually or otherwise, sales of all merchandise, sporting goods, food, beverages or any other items.

(D) All payments to be made herein shall be made in the then legal currency of the United States.

(E) The foregoing notwithstanding, if during the first year of this License Agreement Licensee does not obtain access to the Premises before June 2, 2002, then in that event the License Fee, for Year One only, shall be ten (10%) percent of gross sales with no minimum License Fee applicable in Year One of this License Agreement.

(F) Notwithstanding any contrary provisions of this paragraph 3, during only the second through sixth License Years, the License Fee paid by Licensee shall be reduced by \$25,000 per License Year in recognition of and to partially offset additional resident discounts provided for herein; provided, however, that this provision shall not act to reduce the Minimum License Fee below the amount set forth herein.

4. **PROHIBITED ITEMS:** In no event shall Licensee sell or offer for sale any alcoholic beverages or tobacco items at the Facility nor shall Licensee place any outdoor vending machines on the Premises.
5. **IMPROVEMENTS:** In addition to the License Fee, Licensee shall provide and maintain, at its sole cost and expense, the following improvements (hereinafter "the Improvements") to the Premises. Licensee agrees to expend no less than two million one hundred thousand (\$ 2,100,000) dollars on the initial construction of the Improvements. The following improvements shall be the minimum improvements provided by Licensee:

(A) Remove the existing play surface and improve, reconstruct and replace the existing red-clay tennis courts with eight (8) new "Lee Hydro-Courts"[™] including all infrastructure, foundations, utilities, drainage, irrigation, fencing and a new air structure enclosures (which shall be connected to the clubhouse), which shall provide a complete and usable indoor playing surface to be located in the area designated on Schedule "A" ("the Facility Area").

(B) Install a 17,100 square foot indoor multi-sport facility within a new separate air structure, including all infrastructure, foundations, utilities, drainage, irrigation, fencing and air structure enclosure which shall provide a complete and usable indoor playing surface to be located in the Facility Area .

(C) Construct a 6,000 square foot (plus or minus 5%) clubhouse (with a 1,200 square foot rooftop viewing deck covered by the air structure, providing viewing of all eight tennis courts). The clubhouse will consist of the following areas and approximate square footage :

Lobby and Public Space	1,600 sq. ft.
Men's & Women's locker rooms with steam and/or sauna rooms	880 sq.ft.
Party Room and Nursery	1,620 sq.ft.
Pro Shop	324 sq.ft
Office & Storage	240 sq.ft.
Two Handicap Accessible Bathrooms	320 sq.ft.
Mechanical room to incorporate existing transformer and utilities	

and all air structure services

684 sq.ft.

(D) All air handlers, heaters and other related mechanical equipment needed to service the air structures will be housed within the building and will not be visible.

(E) There shall be two opaque air structures during the indoor season one of which shall house the tennis courts and the other of which shall house the multi-sport facility.

(F) Landscaping per the site plan to be approved.

(G) All Improvements and any other work performed by Licensee shall be subject to Site Plan approval by the Village Board and required permits. All work shall be performed in a workman like manner so as to provide safe, usable and durable venues for the intended recreational activities.

(H) All construction shall be in accordance with applicable building, fire, health and safety codes. Licensee shall, at its own expense, apply for and obtain all required permits, approvals, certificates and inspections prior to constructing or opening any portion of the Improvements for use and shall, during the term of this agreement, continue to maintain all permits, certificates and approvals required by any law, ordinance, rule or regulation of any level of government.

(I) Prior to commencement of any demolition or work on the Improvements, Licensee or its general contractor shall provide surety bonds securing performance and completion of the work and payment of all subcontractors and materialmen, written to the benefit of the Village, by a surety company acceptable to the Village and licensed by the New York State Insurance Department. In addition, Licensee shall have in place (during the term of this agreement) insurance in accordance with the minimum schedule annexed as Exhibit "A" and shall name the Village as an additional insured and certificate holder with provision for at least thirty (30) days advance notice of cancellation of any policy required by this agreement.

6. **CONSTRUCTION:**

(A) All construction shall be subject to prior consultation with the Village Board and the issuance of building permits by the Village Building Inspector. However, nothing contained in this agreement shall be construed to relieve Licensee of complete and total responsibility and liability for ensuring that all construction is performed in accordance with all applicable codes, law, rules and regulations. Subject to requirements of applicable law and regulations, the Village shall promptly cooperate with Licensee in order to facilitate the contemplated construction and other requirements of this Agreement.

(B) Prior to applying for a Building Permit, Licensee shall submit a Site Plan, conforming to the requirements of the Village's Site Plan regulations, to the Village Board for review and approval. In addition to all other required items Licensee shall include such additional information or studies as the Village shall reasonably request. The Village shall make its best efforts to expedite review of the proposed site plan in accordance with the applicable provisions of the State Environmental Quality Review Act.

(C) Provided Licensee has complied with all requirements for the submission of plans and the Site Plan has been approved as provided for in paragraph 6 (B), Licensee shall have total access to the Premises to commence construction as soon as all permits are issued. The re-construction of the existing courts shall be completed in two four court bays so as to leave four courts available for use at all times during the period of year 2002 outdoor operations (as defined in paragraph 9 [A]). An onsite construction trailer shall also provide temporary office space during the summer of 2002. Licensee shall make its best efforts to complete the new air structure foundations and hydro-courts within sixty (60) days of Licensee being provided access to the Premises (but in no event shall Licensee take more than 120 days to complete same) and all eight courts shall be available to residents and customers from that time on. The Village and Licensee shall cooperate in providing information to residents on availability of court space during construction.

(D) The renovation and construction of the clubhouse, Multi-Sport Facility and "sports bubble" air-structure shall begin at the time access is provided to the Premises and shall progress simultaneously with the re-construction of the courts. The indoor sports facilities, office and public spaces, as well as locker rooms and bathrooms shall be open to the public by the start of the indoor tennis season. The indoor season shall commence within no more than five (5) months after issuance of building permits and Licensee represents that it shall diligently process its applications for required permits.

(E) The entire construction project shall be completely contained within the boundaries of the Premises as the same will be depicted on the site-plan submission. Maximum effort will be made to mitigate any noise and/or nuisance to the community. Construction operations shall not interfere with the Village's use of any other portion of Harbor Island Park including but not limited to the nearby playground and parking areas. No access shall be permitted to Licensee or its agents to any other portions of Harbor Island Park without the express permission of the Village Manager. A principal of Licensee or a regional manager will be on-site at all times during the construction phase.

(F) At the completion of construction all construction materials and debris shall be removed and any areas of the Premises which have been disturbed, which are not part of the new construction, shall be restored to a condition equal to or better than existed prior

to commencement of construction.

7. **INDEMNIFICATION:** To the maximum extent permitted by law, Licensee hereby assumes the entire responsibility and liability for any and all damage (direct or consequential) and injury (including death), disease or sickness of any kind or nature whatsoever, not caused by the Village, Village Employees, Village Officers and/or Village Consulting Engineers, to all persons, whether or not employees of the Licensee, and to all property and business or businesses, caused by, resulting from, arising out of, or occurring in connection with (i) the construction; (ii) the performance or intended performance of the construction; (iii) the performance or failure to perform this Agreement; (iv) the operation of the facilities at the Premises or (v) any occurrence which happens in or about the Premises and was caused by Licensee, its agents, invitees, suppliers, officers or employees either directly or through a Subcontractor, or while any of Licensee's property, equipment or personnel is in or about such area. Except to the extent, if any, expressly prohibited by law, should any such damage or injury be sustained, suffered, or incurred by the Village, any Village Employee, Village Officer or Village Consulting Engineers or any of their assigns, or should any claim for such damage or injury be made or asserted against any of them, whether or not such claim is based upon any Village Employee, Village Officer or Village Consulting Engineers or any of their assigns alleged active or passive negligence or participation in the wrong or upon any alleged breach of any statutory duty or obligation on the part of the Village, its Employees, Officers or Village Consulting Engineers their officers, agents, partners and/or employees (hereinafter collectively referred to as "Indemnitees"), Licensee shall indemnify, defend and save Indemnitees harmless of, from and against any and all loss, cost, expense, and liability, including without limitation, legal fees and disbursements, that Indemnitees may directly or indirectly sustain, suffer or incur as a result of such damages, injuries and claims provided same has not been caused solely by Indemnitees; and Licensee agrees to assume, on behalf of any and all Indemnitees the defense (with counsel reasonably satisfactory to the party indemnified) of any action at law or in equity, or other legal proceeding, which may be brought against any Indemnitee upon or by reason of such damage, injury or claim and to pay on behalf of every Indemnitee, the amount of any judgment, decree award, or order that may be entered against each said Indemnitee in any such action or proceeding.
8. **NON-DISCRIMINATION:**
(A) Licensee shall, and shall cause all subcontractors to, comply with all requirements of the Village and of the law governing equal employment opportunity, affirmative action, and the subcontracting of Work to minority-owned and women-owned business enterprises. Licensee shall incorporate the requirements of such agreement in every subcontract.

(B) At all times during the performance of its work under this Agreement, Licensee shall not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, sexual orientation, age, disability, or marital status, and shall undertake or continue existing programs of affirmative action to ensure that minority group persons and women are afforded equal opportunity without discrimination.

9. **OPERATION AND MANAGEMENT:**

(A) Licensee will construct and operate the Premises as a "Family Tennis and Multi-Sport Club" offering individual and family memberships along with a wide variety of leagues and instructional programs for adults and children. An indoor tennis season shall be conducted from approximately September 25th through May 10th and an indoor season for the Multi-Sport Facility shall be conducted from approximately September 5th through May 15th, during each License Year (except as may be otherwise provided for herein during Year 1). Outdoor operations shall be conducted at all other times except for the short period of time each year when the air structures are erected and taken down.

(B) Once constructed, except for closure due to weather or other emergency, Licensee shall operate all of the facilities described herein for no less than 350 days each year.

(C) The hours of operation will be from 6:00 am until 11:00 pm during the indoor season, with the right to stay open until 1:00 am during the indoor season. Hours shall be reduced to the period from 6:00 am to dusk during the outdoor season.

(D) The air structures shall be maintained over the multi-sport and tennis courts during the indoor season.

(E) No use of the multi-sport or tennis courts shall be permitted after dusk during the outdoor season ^ and Licensee shall provide appropriate gates to secure the playing surfaces from unauthorized use. There shall be no outdoor lighting of any playing surface.

(F) Licensee shall adhere to the fee schedule and resident discounts set forth in Exhibit "B" annexed hereto and made a part of this License Agreement. All rate increases shall be in accordance with the schedule set forth in Exhibit "B". Licensee may only increase rates by amounts greater than ten (10%) percent per year if Licensee has submitted information to the Village Manager indicating the economic need for a greater increase in rates and if the Village Manager approves such increase in rates, which approval shall not be unreasonably withheld or delayed.

(G) Licensee shall adequately staff the Premises at all times and shall designate an on site management person for contact by the Village. The Village Manager shall be provided

with a telephone number at which a responsible individual can be contacted for emergencies twenty four hours per day, seven days per week.

(H) Licensee shall staff the facilities at all times with staff appropriate in number and experience to provide professional service to those who use the facilities and shall have professional instructors on site to meet customer demand.

(I) The Pro Shop shall be opened at reasonable times during regular business hours.

(J) As a use accessory to the operation of the tennis courts and Multi-Sport Facility, Licensee may sell sporting equipment and apparel, soft drinks and snack foods on site.

(K) All lights at the Premises, except for security lights, shall be extinguished within one hour after the Premises are closed for business each night.

(L) Licensee shall provide free group tennis lessons to children, below the age of 18 who are residents of the Village, during the outdoor tennis season, and free introductory clinics year-round. Licensee shall offer a "scholarship program" providing instruction, practice and facility use to children below the age of 18 who demonstrate financial need. The Village and the Licensee shall establish a procedure to qualify residents for the scholarship program. The Village shall administer the qualification of residents for the scholarship program.

10. **MAINTENANCE:**

(A) Licensee agrees to keep the Premises, and any immediately adjacent area around the Premises, clean and free of debris and refuse, and shall, on a regular basis, clean all restrooms and locker rooms and inspect the entire Premises for debris and trash and collect same for proper disposal.

(B) Licensee shall maintain the Premises and all structures, playing surfaces and equipment in a condition which is clean, safe and usable for their intended purposes during the entire term of this License Agreement. In addition, Licensee shall maintain the Premises, structures, equipment and playing surfaces in such a manner as to be available and attractive to use by individuals and families, recognizing that the Premises are owned by the Village and must provide a clean, safe and wholesome environment for use by Village residents and visitors to the Village.

(C) Tennis surfaces shall be resurfaced no less than once every year by removing and replacing "dead" material, and more often if required to provide safe and usable facilities. The Multi-Sport playing surface shall be resurfaced as necessary to provide a safe and usable facility.

(D) All surfaces shall be inspected by an independent inspector (who shall have at least ten year's experience as a tennis court construction contractor and shall be a member in good standing of the United States Tennis Courts and Track Builders Association) at least once per season and a copy of a written report of such inspection shall be provided to the Village. In the event the inspector makes any recommendations for repairs, replacement or renovation of any portion of the Premises, Licensee shall, within ten (10) days of such report, begin making any repair, replacement or renovation relating to safety and within thirty (30) days of such report provide the Village with a written statement of its intentions with respect to all other recommendations. In the event Licensee determines not to follow any recommendation of the inspector it shall state, in writing, its reasons for not following such recommendation. In the event the Village, within thirty (30) days of receipt of such statement from Licensee, determines, in its reasonable discretion, that such recommendation should be followed, because it relates to safety, cleanliness or usability of the Premises for their intended purpose, Licensee shall, unless it has requested arbitration as provided for herein, within ten (10) days of receipt of notice from the Village, begin making such renovation, replacement or repair.

11. **CONTROL OF CONDUCT:** Licensee agrees to take all appropriate measures to remove individuals who conduct themselves in a manner which is dangerous or unduly disturbing to others. Licensee shall refrain from conducting any business or activity which is not legal on the Premises and illegal use of the Premises is hereby prohibited

12. **BOOKS AND RECORDS:**

(A) Licensee shall keep the following books and records for purposes of inspection by the Village at reasonable times and upon notice in writing of said request to inspect:

- a) account books;
- b) gross receipt statements;
- c) audit books;
- d) quarterly and annual tax returns;
- e) sales tax returns;
- 1) contracts for court time and multi-sport use;
- 2) daily sheets for court and multi-sport utilization;
- 3) invoices for purchase, by Licensee, of items sold on Premises¹

(B) At its own cost and expense Licensee shall furnish the Village with a statement of Gross Sales within sixty (60) days after the close of each month.

(C) As part of the submission required by paragraph 12 (D), and at its own cost and expense Licensee shall provide the Village with an audited statement of gross sales,

¹ All information which is computerized shall be supplied in electronic format.

certified by a public accountant (licensed in the State of New York), within one hundred twenty (120) days of the end of each License Year and notify the Village prior to audit of the audit dates.

(D) At its own cost and expense Licensee shall provide the Village with complete audited financial statements, certified by a public accountant (licensed in the State of New York), for the Premises and Licensee within one hundred twenty (120) days of the end of each License Year.

13. **EXCLUSIVE LICENSE:** This license is exclusive to Licensee and Licensee specifically agrees not to let or grant any other party the use of the Premises for the same or any other business, nor shall the Village grant any other party a license to operate a facility similar to the Facility during the first five (5) years of this Agreement. If after the first five (5) years of this Agreement the Village grants a license to operate a facility similar to the Facility, then in that event, the Village shall give Licensee reasonable notice of the granting of such license. If Licensee reasonably believes such other license shall have a material adverse impact on Licensee's operation of the Facility, the parties agree to negotiate such reasonable modifications of this Agreement as will substantially remove such adverse impacts.
14. **NO ASSIGNMENT:** This License is personal to Licensee and Licensee may not assign this Agreement to any other person, firm, partnership or corporation, including a corporate entity in which Licensee holds an interest. The foregoing notwithstanding Licensee may assign this agreement to an affiliated entity in which Licensee continues to hold a majority interest, provided any such affiliated entity has a net worth at least equal to the net worth of Licensee.
15. **LIMITATIONS ON ALTERATIONS:** After the initial construction provided for herein additions to and alterations of the Premises are hereby prohibited without prior consultation with the Village Manager, provided however any such alteration or addition must be consistent with the purpose and intent of this agreement. The foregoing notwithstanding, no change in the Site Plan or in playing surfaces (including the number of playing surfaces) shall be made without the prior written approval of the Village, which approval shall not be unreasonably withheld or delayed, provided such changes are consistent with the purpose and intent of this agreement and do not adversely impact on the operation of Harbor Island Park.
16. **DEFAULT:**
(A) If there is an Event of Default by Licensee, the Village may serve Licensee with a notice of default. Licensee shall have ten (10) days in which to cure a monetary default and twenty (20) days to cure a non-monetary default which is not in the Village's sole determination an emergency in which case the Village shall give such notice as it deems

appropriate. In the event a non-monetary default is not susceptible to cure within such twenty (20) day cure period, Licensee must diligently commence to cure such default within such twenty (20) day notice period and to diligently complete such cure within no more than thirty (30) additional days.

(B) In the event Licensee believes that, in the case of a notice of a non-monetary default which does not involve what the Village reasonably believes to be an emergency, that Licensee is not actually in default, then in that event Licensee shall have ten (10) days from the date of such notice of default to inform the Village, in writing, of its objection to such notice of default and the grounds for such objection. In such case the parties shall, during the fifteen (15) days following notice of objection from Licensee, attempt to informally resolve their dispute (hereinafter "the Informal Dispute Resolution Period"). At the end of the Informal Dispute Resolution Period one of the following shall occur.

- (i) the Village shall withdraw the notice of default if the Village agrees with Licensee's objection, or
- (ii) Licensee shall immediately commence to cure the default and complete such cure within ten (10) days or if such cure is not susceptible to cure within ten (10) days Licensee shall diligently commence to cure such default within such ten (10) day period and diligently complete such cure within no more than thirty (30) additional days, or
- (iii) the parties shall have such other remedies as are provided for herein.

(C) If the Village has not withdrawn its notice of default as provided for in subparagraph 16 [B] (D), at the end of the applicable notice and cure periods set forth in subparagraphs 16 [A] and [B], if Licensee has failed to cure such default the Village, at its option may, without further notice:

- (i) terminate this license agreement and take possession of the Premises, including all of the Improvements and operate the Premises or license the Premises to another operator; and/or
- (ii) apply the security provided for herein to offset any loss or expense (including reasonable attorneys fees) incurred as a result of the default of Licensee; and
- (iii) to commence an action to collect any loss or expense (including reasonable attorneys fees) in excess of the amount of security along with all costs and expenses (including reasonable attorneys fees) incurred in collecting such sums.

(D) In the event of a default under the terms of this agreement by the Village, Licensee's sole remedy shall be to seek specific performance and if successful obtain costs and

reasonable attorney fees.

17. **EVENTS OF DEFAULT:** The following shall constitute Events of Default under this agreement:

(A) if default be made by Licensee in the performance or compliance with any of the covenants, agreements, terms or conditions of this agreement and such default shall continue beyond the applicable notice period provided for in paragraph 16; or

(B) if at any time during the term hereof there shall be filed by Licensee in any court pursuant to any statute, either in the United States or any State, a petition in bankruptcy or insolvency, or for reorganization, or for the appointment of a receiver or trustee of all or a portion of Licensee's property, or if Licensee makes an assignment for the benefit of creditors ;or

(C) if at any time during the term of this agreement there shall be filed against Licensee in any court pursuant to any statute, either in the United States or any State, a petition in bankruptcy or insolvency, or for reorganization, or for the appointment of a receiver or trustee of all or a portion of Licensee's property, and if Licensee shall fail to immediately seek dismissal of such proceeding, or if within sixty (60) days after the commencement of any such proceeding against Licensee the same shall not have been dismissed.

18. **SECURITY:** Upon execution of this agreement Licensee shall deposit with the Village the sum of Fifty Thousand (\$50,000) as security to ensure the faithful performance of the terms and conditions of this agreement which sum shall be held in an interest bearing account. In the event of a default by Licensee in any condition of this agreement the Village may, in its sole discretion, use the security to remedy such default, and/or pay its expenses in remedying such default, including reasonable attorney fees (all after the expiration of any applicable notice and cure periods provided for herein) without relieving Licensee of its obligations herein. In the event the Village uses the security as provide for herein and has not also terminated this agreement, Licensee shall, upon five (5) days written notice, deposit with the Village the full amount of the security utilized by the Village. In addition, at the time of execution of this agreement Licensee shall provide the Village with an audited financial statement demonstrating that Licensee's partner's capital/net worth, as of the end of calendar year 1999, is no less than Eight Million Four Hundred Thousand (\$8,400,000) Dollars and Licensee's assets have a value of no less than of Thirty-two Million (\$32,000,000) Dollars. If at any time after the commencement of the term of this agreement Licensee's partners' capital/net worth falls below Eight Million Four Hundred Thousand (\$8,400,000) Dollars or the value of Licensee's assets fall below Thirty Two Million (\$32,000,000) Dollars, Licensee shall deposit with the Village the additional sum of Fifty Thousand (\$50,000) Dollars to be held as additional security until

the end of the term of this agreement, unless otherwise utilized pursuant to the provisions of this Agreement

19. **RETURN OF SECURITY** : Upon completion of the term of this Agreement and the submission by Licensee of the documentation and payments required by paragraphs 3 and 12, any portion of the security not used by the Village to remedy a default or pay the expense of remedying a default by Licensee shall be returned to Licensee with such interest as may have accrued.
20. **NO JOINT VENTURE**: It is specifically understood by and between the parties hereto that this Agreement does not constitute a joint venture and that Licensee shall remain solely liable for any damages arising out of its or its agents or employees' conduct with respect to the operations at the Premises.
21. **UTILITIES**: Licensee shall be solely responsible for the cost of all utilities at the Premises and shall maintain temperatures in the indoor facilities conducive to use for their intended purpose.
22. **NOTICES**: Notices pursuant to this Agreement shall be served in writing by certified mail, return receipt requested, at the addresses first above written with copies to the Village Attorney at the Village Offices and to the attorneys for Licensee, Collier, Halpern, Newberg, Nolletti & Bock LLP attention David A. Newberg, Esq., One North Lexington Avenue, White Plains, New York 10601, or such other address as any of the parties may designate in writing.
23. **TAXES**: Licensee shall be responsible for all sales, income and other taxes due and owing as a result of the operations at the Premises.
24. **NO ASSIGNMENT OR LIENS**: Licensee shall not assign, mortgage or pledge this License nor let or underlet the whole or any part of the Premises. Licensee shall not grant or permit any lien to be placed upon the Premises. In the event a lien is placed upon the Premises, Licensee shall, within five (5) days of the placement of such lien, satisfy or bond the lien in an amount equal to one and one half times the amount claimed in such lien. Notwithstanding the foregoing, Licensee may, solely for the purpose of constructing the Improvements, pledge this License Agreement as security for a loan from a Financial Institution (which shall, for the purpose of this paragraph, be a banking institution licensed to do business in the State of New York). It is expressly understood that any such financing shall be solely to fund the original construction of the Improvements or to refinance any sum remaining unpaid under such original financing and for no other purpose. In the event Licensee pledges this License Agreement the interests of such Financial Institution shall be subordinate to any rights or interests of the Village, except to the extent the Financial Institution seeks a security interest in personal property and

fixtures of Licensee in which case such security interest shall be superior to the Village's security interest in the personal property and fixtures of Licensee. The Village shall have no obligation to give any notice to such Financial Institution in order to exercise any of its rights under this License Agreement, however, the Village agrees, without obligation to do so, to make reasonable efforts to provide the Financial Institution with reasonable notice of an Event of Default, provided the Village has been given prior written notice of the name and address of such Financial Institution. Any agreement with a Financial Institution shall provide for notice to the Village of any event of default by Licensee under its agreement with such Financial Institution. The Village agrees to cooperate with reasonable requests of the Financial Institution, in providing for financing as set forth herein, as long as such cooperation shall not in any way diminish the Village's rights in this Agreement or in the Premises.

25. **SIGN**: No signs shall be placed at the entrance to Harbor Island Park and except for directory type signs the only sign to be placed on the Premises shall be a single identifying sign no more than four feet by four feet square. All permitted signs shall be approved by the Village Manager before being placed, which approval shall not be unreasonably withheld.
26. **PARKING**: Parking shall be permitted in the lot serving Harbor Island Park. However, the Village does not guarantee either the number or availability of parking spaces at any time.
27. **SPECIAL EVENTS**: From time to time the Village holds events at Harbor Island Park which bring large numbers of individuals to the Park. Should Licensee hold special events which also bring large numbers of individuals to the Park, at the same time, there will be inadequate parking at the Park, which will result in difficulty for anyone seeking to use the Park. The Village shall notify Licensee at least four (4) months in advance of the scheduled date of any such event. Upon receipt of such notice Licensee shall refrain from scheduling any event on the same date which would bring larger numbers of people to the Premises than would ordinarily be present. For the purpose of this paragraph, by example without limiting the nature thereof, the sort of events the Village will hold are the Fireman's Carnival which runs for two weeks each year and the sort of events which would be incompatible, if run at the same time by Licensee, are end of season parties and league playoffs.
28. **ARBITRATION**: In the event of a dispute between the parties over any terms or conditions of this agreement, where there is not otherwise a provision for resolution of such dispute contained herein, such dispute shall be resolved by a single arbitrator of the American Arbitration Association ("AAA") at its White Plains office, in accordance with the AAA rules then in effect. Such arbitration shall be requested within ninety (90) days of written notice of any dispute and upon the making of a request for arbitration by either

party all actions or proceedings over the subject matter to be arbitrated shall be stayed. In the event of arbitration the parties shall share equally the arbitrator's fees. The decision of the arbitrator shall be final and binding upon the parties and may be entered in any court of competent jurisdiction.

29. **NO REPRESENTATIONS:** Licensee acknowledges that it has made its own investigation of the condition and suitability of the Premises for the proposed improvements and operations and that it has not relied upon any representations of the Village as to the fitness thereof and that by taking possession of the Premises and fixtures Licensee accepts them "as is".
30. **RENEWAL OPTION:**
(A) Provided no event of default exists and that Licensee or its affiliate (as provided hereinabove) is continuing to operate the Premises in accordance with the terms and provisions of this Agreement, Licensee shall have an option to renew the License granted herein for one (1) renewal period of ten (10) years (the "Renewal Term"), provided notice is given to the Village at least eighteen (18) months before the expiration of the Term and provided further that prior to the expiration of the Term Licensee has expended at least One Million (\$1,000,000) Dollars on capital improvements (the "Capital Improvements"), in addition to the Improvements provided for herein, to the Premises. In the event Licensee has not made One Million (\$ 1,000,000) Dollars in Capital Improvements at the time it seeks to exercise this Renewal Option and the Village agrees that no further Capital Improvements are needed, Licensee shall deposit with the Village, at the time it gives notice of its desire to exercise this Renewal Option, the difference between the amount expended for Capital Improvements (as demonstrated by Licensee's audited financial statements) and One Million (\$1,000,000) Dollars as a fee to the Village for the right to exercise this Renewal Option. However, if the parties agree that additional Capital Improvements are required, Licensee shall, during the first year of the renewal period complete all such additional Capital Improvements and if the total Capital Improvements are less than One Million (\$1,000,000) Dollars, then pay to the Village the difference, if any, between the amount paid for Capital Improvements and One Million (\$1,000,000) Dollars. The nature of all Capital Improvements shall be subject to advance written approval by the Village Board, which approval shall not be unreasonably withheld or delayed. In addition, the Minimum Annual License Fee during the first year of the Renewal Term shall be the greater of \$315,000.00 or ten (10%) percent of the average Gross Sales for the last two years of the Term and the Minimum Annual License Fee shall thereafter be increased by two (2%) percent during each remaining year of the Renewal Term.

(B) In the event the Licensee wishes to exercise the Renewal Option provided for in paragraph 30 (A) for a period of seventeen (17) years rather than ten (10) years, all of the provisions for renewal set forth in paragraph 30 (A) shall apply, except that each reference

in paragraph 30 (A) to One Million (\$1,000,000) Dollars shall be increased to One Million Seven Hundred Thousand (\$1,700,000) Dollars.

31. **Representations:**

(A) Licensee's Representations: As a material inducement to the grant by the Village of the license contemplated hereby, Licensee hereby represents and warrants to the Village as follows:

(i) Licensee is duly organized and validly existing under the laws of the State of New York.

(ii) Attached hereto as Exhibit "D" is a true, correct and complete copy of Licensee's audited financial statements for the year ended August, 1999. As of the date Licensee submitted its response to the Village's request for proposals (the "Submission Date") and continuing to the date hereof, Licensee's partner's capital/net worth has been no less than Eight Million Four Hundred Thousand (\$8,400,000) Dollars and Licensee had, and continues to have as of the date hereof, assets valued at not less than \$32,000,000.

(iii) Licensee has constructed, and now owns, manages and operates no fewer than five multi-sport facilities featuring in-line hockey, basketball, volleyball, lacrosse, soccer and children's physical education programs. As of the Submission Date, Licensee had constructed, owned, managed and operated no fewer than four of such facilities.

(iv) As of the Submission Date and as of the date hereof, Licensee employed and now employs, no fewer than 400 people.

(B) Representations by the Village:

(i) Representatives of the Village have visited and inspected various of Licensee's currently operating facilities and have determined in its sole discretion that such facilities meet the Village's expectations for cleanliness, safety and appearance.

(ii) The Village has duly authorized entry into this Agreement and performance by the Village of its obligations hereunder.

32. **MISCELLANEOUS:**

(A) Licensee shall not occupy or use the Premises, nor permit the same to be occupied or used for any business deemed extra hazardous on account of fire or otherwise.

(B) At the end of term or sooner expiration of this Agreement, Licensee will quit and surrender the Premises hereby licensed, in as good state and condition as reasonable use and wear thereof will permit, damages by the elements excepted and may remove only inventory and personal property. At that time, all structures, Improvements, playing surfaces and fixtures shall remain and become the property of the Village.

(C) Licensee must give the Village prompt notice of fire, accident, damage or dangerous or defective condition.

(D) Licensee hereby assumes the risk of all damage to the Premises during the term of this agreement. In the event of fire or other casualty Licensee shall not be relieved of its obligation to pay the annual license fee and shall promptly restore all damaged facilities

(E) The Village shall have the right to enter in and upon the Premises at all reasonable hours of the day during the term of this Agreement to ascertain if the Premises are kept in proper repair and condition.

(F) Licensee waives all rights to redeem under any law of the State of New York, if it is found such rights exist by a court of competent jurisdiction.

(G) This License and the obligation of Licensee to perform all of the covenants and agreements hereunder on the part of Licensee to be performed shall in no way be affected, impaired or excused because the Village is unable to supply or is delayed in supplying any service expressly or impliedly to be supplied if the Village is prevented or delayed from so doing by reason of governmental preemption in connection with a State of Emergency declared by the Governor of the State of New York, National Emergency declared by the President of the United States or in connection with any rule, order or regulation of any department or subdivision thereof of any governmental agency, court or by reason of the conditions of supply and demand which have been or are affected by war or other emergency.

(H) The failure of either party to insist upon strict performance of any of the terms, conditions and covenants herein, shall not be deemed a waiver of any rights or remedies of such party, and shall not be deemed a waiver of any subsequent breach or default in terms, conditions and covenants herein contained.

(I) This Agreement constitutes the entire understanding between the parties hereto and may only be changed by a writing signed between the parties hereto.

(J) This Agreement may be signed in one or more counterparts (or with counterpart signature pages) which, taken together, shall constitute a fully executed Agreement and shall be considered a single document.

(K) If any date on which a time period scheduled to expire herein is a Saturday, Sunday or holiday, the subject date shall be extended to the next business day

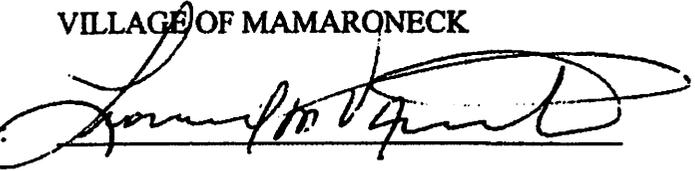
(L) This Agreement has been drafted by counsel for both parties, and accordingly, any ambiguities contained herein shall not be interpreted in favor of or against either party

based upon a claim as to the party who drafted the language.

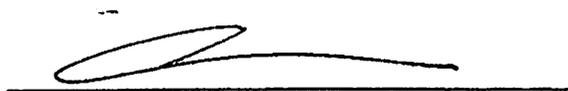
(M) Licensee shall deliver to the Village copies of all plans, reports, permits and approvals obtained by Licensee in connection with the Premises. In the event of termination of this agreement for any reason, Licensee hereby unconditionally assigns to the Village all of Licensee's right, title and interest in such items.

IN WITNESS WHEREOF, the parties hereto have signed their names on the date first written above.

VILLAGE OF MAMARONECK

By: 

ISLAND TENNIS, LP

By: 

SCHEDULE "A"
Map of Premises

SCHEDULE "A"

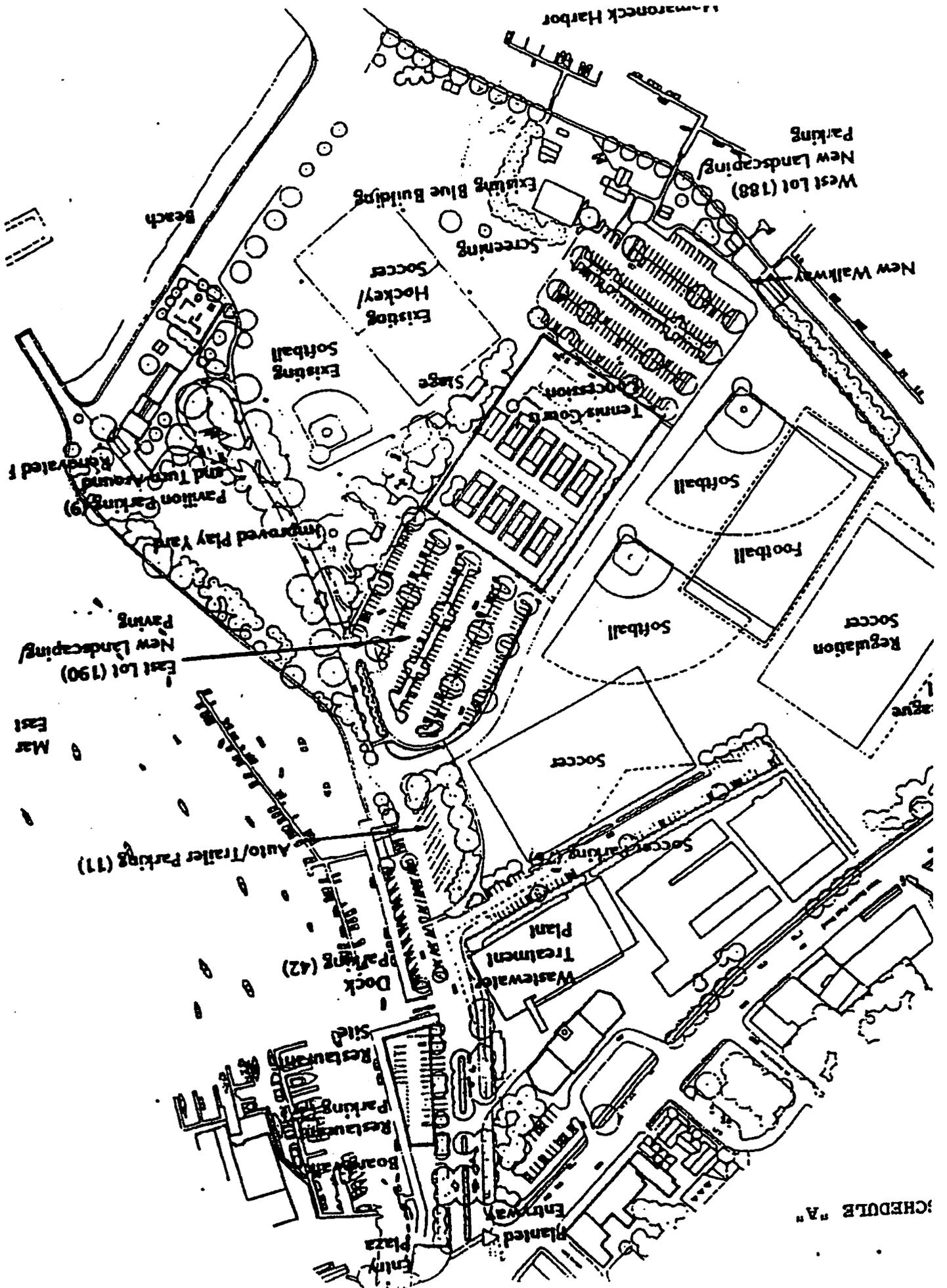


EXHIBIT "A"
Insurance Requirements

Exhibit "A"

The insurance required shall be written for not less than the following limits, or greater if required by law:

a. **Workers' Compensation**

- (1) State: Statutory
- (2) Applicable Federal (e.g., Longshoremen's): Statutory
- (3) New York State Disability Benefits: Statutory
- (4) Employer's Liability: \$100,000 per Accident \$500,000 Disease, Policy Limit \$100,000 Disease, Each Employee

b. **Comprehensive General Liability (including Premises-Operations, Independent Contractors' Protective, Products and Completed Operations, Broad Form Property Damage):**

- (1) \$2,000,000 combined single limit for Bodily Injury and Property Damage (per occurrence and per project).
- (2) \$2,000,000 Aggregate Products and Completed Operations (per occurrence and per project).

Property Damage Liability Insurance shall provide X, C, and U coverage.

Broad Form Property Damage Coverage shall include Completed Operations.

c. **Contractual Liability:**

Combined single limit per occurrence/per project for Bodily Injury and Property damage: \$1,000,000 each occurrence, \$2,000,000 aggregate

The General Contractor must hold the Owner harmless for a minimum limit of \$5,000,000 for bodily injury, property damage, and personal injury liabilities for claims arising out of the Contractor's and Subcontractor's operations. Furthermore, "Contractual Liability" is hereby defined to extend to include

defense of the indemnity by endorsement.

- d. Personal Injury, with Employment Exclusion deleted, per occurrence: \$2,000,000 aggregate
- e. Business Auto Liability (owned, non-owned, and hired vehicles) Combined single limit for Bodily Injury and Property Damage: \$2,000,000
- f. If the General Liability Coverage are provided by a Commercial Liability policy, the:
 - (1) General Aggregate shall be not less than \$2,000,000, and it shall apply, in total, to this project only.
 - (2) Fire Damage Limit shall be not less than \$100,000 on any one legal fire.
 - (3) Medical Expense Limit shall be not less than \$10,000 on any one person.
- g. Umbrella Excess Liability, Minimum: —
 - \$5,000,000 over primary insurance.
 - \$10,000 retention for self-insured hazards each occurrence for bodily injury, personal injury, and property damage liability.

Coverage must extend to include the real property and personal property of others in the Contractor's care, custody, and control.
- h. No insurance shall be carried with an insurer not licensed to do business in the State of New York or one who is not satisfactory to the Village.
- i. Verification of Coverage: The Village shall have the right to inspect and approve insurance coverages above specified.
- j. Certificates in duplicate, evidencing insurance coverage carried by Sportime and its Contractor, shall be filed with the Village before the commencement of construction. If requested by the Village, each certificate shall have attached to it a true copy of policy or policies to which it refers.
- k. The Village reserves the right, during the term of this agreement to

require increases in insurance coverage which are consistent with the then rates of coverage maintained by similar facilities in Westchester County.

EXHIBIT "B"
Fee Schedule

EXHIBIT "B"

PRICING GUIDELINES INDOOR SEASON – TENNIS AND MULTI-SPORT

Licensee will be free to establish a new 2002-2003 pricing structure, for all products and programs it chooses to offer, prior to the opening of the new facility. This fee structure will be based on Licensee's analysis of the current fee structure and of market rates and market conditions.

Licensee will offer a resident and non-resident rate for all products and programs. Resident rates will reflect a 10% discount on all fees, except for membership, but including any applicable enrollment fees.

The non-resident membership fee will be \$15 per month for the license year September, 2002 through August, 2003. The resident membership fee will be \$13 per month for that same license year.

Going forward, annual resident membership fee increases may not exceed \$2 per month (\$24 per year.) Non-resident membership fees may be adjusted based on market conditions and to conform to the membership rates of other Sportime clubs in the area.

Going forward, annual product and program fee increases may not exceed 7%.

PRICING GUIDELINES OUTDOOR SEASON – TENNIS ONLY

Licensee will be free to establish a new pricing structure, for all products and programs it chooses to offer, including membership, prior to the opening of the new facility for the outdoor season 2002. This fee structure will be based on Licensee's analysis of the current permit and fee structure and of market rates and market conditions.

Licensee will offer a resident and non-resident rate for all products and programs and resident rates will reflect a 10% discount for all products and program fees offered, except for membership (described below), but including any applicable enrollment fees.

For the 2002 outdoor season, the maximum resident membership fees will be as follows. The below rates are for a Prime Membership, which allows a member to play at all times that the facility is open, with no additional fees. However, resident senior rates will only be offered to those individuals who held a valid permit for the 2001 outdoor tennis season. Senior residents who did not hold a 2001 permit would be subject to the resident individual or couple rates.

Resident Rates, Outdoor Season

Year 1 – 2002

Resident, Individual	160.
Resident, Couple	250
Resident, Family	400.
Resident, Individual Senior	160.
Resident, Senior Couple	250.

Year 2 – 2003

Resident, Individual	220.
Resident, Couple	310.
Resident, Family	460.
Resident, Individual Senior	220.
Resident, Senior Couple	310.

Year 3 – 2004

Resident, Individual	290.
Resident, Couple	380.
Resident, Family	530.
Resident, Individual Senior	250.
Resident, Senior Couple	350.

Year 4 – 2005

Resident, Individual	380.
Resident, Couple	470.
Resident, Family	620.
Resident, Individual Senior	250.
Resident, Senior Couple	350.

Year 5 – 2006

Resident, Individual	480.
Resident, Couple	570.
Resident, Family	720.
Resident, Individual Senior	250.
Resident, Senior Couple	350.

Year 6 – 2007 and all-future years

Resident, Individual	50% of non-resident rate
Resident, Couple	50% of non-resident rate
Resident, Family	50% of non-resident rate
Resident, Individual Senior	\$250.
Resident, Senior Couple	350.

Rates charged residents shall be the lesser of the rates noted above or 50% of the rates charged to non-residents.

For all types of membership, including other types of memberships that may also be offered, restricting play to various times and days, residents will receive a minimum 50% discount off non resident fees.

Annual membership fee increases may not exceed 10%.

Annual product and program fee increases may not exceed 7%.

EXHIBIT "C"
Audited Financials

ISLAND TENNIS, LP
YEAR ENDED AUGUST 31, 1999

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Financial statements:	
Statement of financial condition	2
Statement of operations and changes in partners' capital	3
Statement of cash flows	4
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Accompanying information:	
Schedule of operations by location	12-13

TRUHAN & SANDS, P.C.

CERTIFIED PUBLIC ACCOUNTANTS
35 PINELAWN ROAD, SUITE 100W
MELVILLE, NEW YORK 11747

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FAX (631) 752-1493

Independent Auditor's Report

Partners

Island Tennis, LP
Amagansett, New York

We have audited the accompanying statement of financial condition of Island Tennis, LP (a limited partnership) as of August 31, 1999 and the related statements of operations and changes in partners' capital and cash flows for the year then ended. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial condition of Island Tennis, LP as of August 31, 1999, and the results of its operations and its cash flows for the year then ended, in conformity with generally accepted accounting principles.

Truhan + Sands C.P.A., P.C.

December 30, 1999

ISLAND TENNIS, LP
STATEMENT OF FINANCIAL CONDITION
AUGUST 31, 1999

ASSETS

Current assets:	
Cash	\$ 21,321
Cash, escrow	58,472
Accounts receivable, net of allowance of \$12,539	509,876
Due from affiliate (Note 6)	235,028
Prepaid expenses	316,069
Other current assets	<u>50,114</u>
Total current assets	<u>1,199,880</u>
Property, plant & equipment, net (Note 2)	<u>22,575,468</u>
Other assets:	
Investment in affiliate (Note 3)	1,406,223
Intangible assets, net (Note 4)	7,245,984
Security deposits	108,652
Other assets	<u>92,174</u>
	<u>8,853,033</u>
	<u>\$32,619,381</u>

LIABILITIES AND PARTNERS' CAPITAL

Current liabilities:	
Long-term debt, current portion (Note 9)	\$ 732,337
Capital lease obligations, current portion (Note 7)	125,443
Accounts payable & accrued expenses	609,020
Payroll and sales taxes payable	105,398
Customer deposits held	1,101,574
Deferred revenue	<u>114,234</u>
Total current liabilities	<u>2,788,006</u>
Noncurrent liabilities:	
Capital lease obligations, less current portion (Note 7)	276,735
Long-term debt, less current portion (Note 9)	18,195,376
Due to Partners (Note 8)	<u>2,940,210</u>
	<u>21,412,321</u>
Partners' capital	<u>8,419,054</u>
	<u>\$32,619,381</u>

See notes to financial statements.

ISLAND TENNIS, LP
STATEMENT OF OPERATIONS AND CHANGES IN PARTNERS' CAPITAL
YEAR ENDED AUGUST 31, 1999

Revenues	\$12,311,976
Operated department expenses	<u>3,258,479</u>
Gross profit	9,053,497
Operating expenses	<u>7,112,925</u>
Income before interest income, depreciation and amortization and interest expense	1,940,572
Interest income	<u>28,289</u>
Income before depreciation and amortization and interest expense	1,968,861
Depreciation and amortization	1,219,849
Interest expense	<u>1,564,706</u>
Net loss	(815,694)
Partners' capital, beginning	<u>9,234,748</u>
Partners' capital, ending	<u><u>\$ 8,419,054</u></u>

See notes to financial statements.

ISLAND TENNIS, LP
STATEMENT OF CASH FLOWS
YEAR ENDED AUGUST 31, 1999

Cash flows from operating activities:	
Net loss	(\$ 815,694)
Adjustments to reconcile net loss to net cash provided by operating activities:	
Depreciation & amortization	1,219,848
(Increase) decrease in assets:	
Escrow funds	217,528
Accounts receivable	(281,870)
Due from affiliate	(235,028)
Prepaid expenses	249,561
Other current assets	115,932
Security deposits	(84,886)
Other assets	(92,174)
(Decrease) increase in liabilities:	
Payroll and sales tax payable	52,589
Accounts payable & accrued expenses	260,903
Customer deposits held	122,723
Deferred revenue	<u>114,234</u>
Net cash provided by operating activities	<u>843,666</u>
Cash flows from investing activities:	
Purchase of property, plant & equipment	(5,095,268)
Purchase of intangible assets	(1,905,009)
Investments in affiliate	<u>(280,000)</u>
Net cash used in investing activities	<u>(7,280,277)</u>
Cash flows from financing activities:	
Proceeds from issuance of long term debt	1,523,992
Proceeds from partner loans	2,925,000
Increase in capital lease obligations	360,601
Repayment of long-term debt	(161,469)
Repayment of partner loans	<u>(10,453)</u>
Net cash provided by financing activities	<u>4,637,671</u>
Net decrease in cash and cash equivalents	(1,798,940)
Cash at beginning of year	<u>1,820,261</u>
Cash at end of year	<u>\$ 21,321</u>
Supplemental disclosure of cash flow information:	
Cash paid during the year for:	
Interest	<u>\$1,535,118</u>

See notes to financial statements.

ISLAND TENNIS, LP
NOTES TO FINANCIAL STATEMENTS
YEAR ENDED AUGUST 31, 1999

1. Summary of significant accounting policies:

Line of business:

Island Tennis, LP (the Company) was formed on August 1, 1994 under the laws of the State of New York as a Limited Partnership. The Company owns and operates tennis and fitness centers.

Revenue recognition:

The Company recognizes revenue as it is earned based upon the length of the season and the type of service for which each member has registered.

Property, plant & equipment and depreciation:

Property, plant and equipment are stated at cost. Depreciation is provided for using the applicable straight line and accelerated methods over the estimated useful lives of the assets.

Intangible assets and amortization:

Intangible assets are stated at their respective costs. Goodwill is amortized over a period of 15 years. Certain financing costs are being amortized over the life of the respective loan agreements.

Income taxes:

The Company is not a taxpaying entity for federal or state income tax purposes, and thus no income tax expense has been recorded in the financial statements. Income of the Company is taxed to the partners in their respective returns.

Pension plan:

The Company has a contributory defined contribution pension plan available to all employees established under Internal Revenue Code Section 401(k). Pension costs are being funded as accrued. Pension expense for the year ended August 31, 1999 was \$ 6,178.

Concentration of credit risk:

The Company had cash and cash equivalents of \$181,557 on deposit at a financial institution at August 31, 1999, in excess of the amount insured by the Federal Deposit Insurance Corporation.

ISLAND TENNIS, LP
NOTES TO FINANCIAL STATEMENTS
YEAR ENDED AUGUST 31, 1999

1. Summary of significant accounting policies (continued):

Cash equivalents:

The Company considers all highly liquid investments purchased with a maturity of three months or less to be cash equivalents.

Estimates:

In preparing financial statements in conformity with generally accepted accounting principles, management is required to make estimates and assumptions that affect the reported assets and liabilities and the disclosure of contingent assets and liabilities at the date of the financial statements and revenues and expenses during the reporting period. Actual results could differ from those estimates.

2. Property, plant & equipment:

Major categories of property, plant and equipment are:

Land	\$ 6,642,263
Transportation equipment	36,004
Machinery and office equipment	3,130,600
Furniture and fixtures	192,338
Buildings	11,989,515
Improvements	<u>4,492,748</u>
	26,483,468
Less: Accumulated depreciation	<u>(3,908,000)</u>
	<u>\$22,575,468</u>

3. Investments:

The Company is a 50% member in Lynbrook Tennis Time, LLC. As of August 31, 1999 Lynbrook Tennis Time, LLC's assets and liabilities totaled \$3,666,012 and \$1,433,498, respectively.

ISLAND TENNIS, LP
 NOTES TO FINANCIAL STATEMENTS
 YEAR ENDED AUGUST 31, 1999

4. Intangible assets:

Major categories of intangible assets are:

Goodwill	\$6,885,249
Organization costs	465,372
Deferred mortgage costs	484,834
Refinancing costs	63,596
Other intangibles	<u>40,014</u>
	7,939,065
Less: Accumulated amortization	<u>(693,081)</u>
	<u>\$7,245,984</u>

5. Commitments & contingencies:

Leases:

The Company leases some of its premises under several operating leases expiring on various dates through 2013. Monthly rent is \$32,826 plus real estate taxes. Rent expense for the year ended August 31, 1999 amounted to \$414,673. The Company has noncancelable future rental commitments, exclusive of property taxes, as follows:

Years ended August 31, 2000	\$ 401,808
2001	401,808
2002	401,808
2003	401,808
2004	<u>\$ 401,808</u>
	<u>\$2,009,040</u>

Management contract:

The Company has committed to a management consulting contract with the former owner of a tennis center that the Company purchased in August, 1998. The contract calls for monthly payments in the amount of \$24,375 and will expire upon the payment in full by the Company to the former owner under the terms of the related note payable. Management consulting fees for the year ended August 31, 1999 totaled \$279,723.

Guaranty:

The Company is a guarantor of a mortgage note owed to a bank by Lynbrook Tennis Time, LLC, a related party. The balance as of August 31, 1999 was \$ 967,800.

ISLAND TENNIS, LP
 NOTES TO FINANCIAL STATEMENTS
 YEAR ENDED AUGUST 31, 1999

6. Due from affiliate

The Company has a loan receivable from Lynbrook Tennis Time, LLC, a related party. The loan calls for repayment of principal as the funds are available to Lynbrook Tennis plus interest payable at Prime + 6% per annum.

7. Capital lease obligations

The Company is obligated under several capital leases. Each of these leases, which expire on various dates through 2004, are secured by the related assets.

Capital lease obligations mature as follows:

Years ended August 31, 2000	\$	125,443
2001		115,607
2002		72,336
2003		48,719
2004		40,073
		402,178
Less current portion		125,443
		\$ 276,735

8. Due to partners

The Company has loans from partners payable in monthly installments of interest only at 12% per annum. The loans mature in January, 2001 and February 1, 2001 at which time the principal balance will be due. The combined balance at August 31, 1999 was \$2,925,000.

The Company also has a loan from a partner for the purchase of a tennis court maintenance business in August, 1998. The loan is payable in monthly installments of \$1,002 with interest at 7.5% per annum through December, 2001. The balance at August 31, 1999 was \$15,210.

ISLAND TENNIS, LP
NOTES TO FINANCIAL STATEMENTS
YEAR ENDED AUGUST 31, 1999

9. Long term debt:

Bank mortgage note payable, secured by the Company's assets, payable in monthly installments of \$57,062 with interest at 7.92% per annum. The note matures on September 2, 2008 at which time the remaining principal will be due.	\$ 5,806,801
Bank mortgage note payable, secured by the Company's assets, payable in monthly installments of \$5,555 plus interest at the prevailing prime rate per annum. The note matures on January 1, 2001 at which time the remaining principal will be due.	994,444
In connection with the bank mortgage notes payable described above, the Company is required to comply with certain financial and non-financial covenants.	
Purchase money mortgage note payable, secured by the related property, payable in monthly installments of \$75,625, interest only at 8.25% per annum. The note, which is subordinate to the bank mortgage notes payable Described above, matures on August 21, 2008 at which time the remaining principal will be due.	11,000,000
Note payable to a former partner, unsecured, payable in three annual installments of \$100,000, \$150,000 and \$263,000 through August 21, 2001, interest at 8% per annum payable quarterly.	513,000
Purchase money mortgage note payable, secured by the related property, payable in monthly installments \$1,678 with interest at 9% per annum. The note matures in February, 2009 at which time the remaining principal will be due.	198,362
Note payable, bank, payable in monthly installments of \$3,586 with interest at 5% per annum, through January, 2003.	137,889

ISLAND TENNIS, LP
 NOTES TO FINANCIAL STATEMENTS
 YEAR ENDED AUGUST 31, 1999

9. Long term debt (continued):

Note payable, broker, unsecured, payable in monthly installments of \$6,000, interest free through February, 2002.	177,000
Equipment notes payable, secured by the related equipment, payable in monthly installments of \$316-554, with interest at 6.9%-11.25%, maturing on various dates through April, 2004.	39,887
Note payable, insurance financing, payable in Monthly installments of \$10,283 with interest At 7.75% per annum through February, 2000.	<u>60,330</u>
Total Long Term Debt	18,927,713
Less current portion	<u>732,337</u>
	<u>\$18,195,376</u>

Notes payable mature as follows:

Years ended August 31, 2000	\$732,337
2001	737,848
2002	388,144
2003	391,588
2004	392,666

10. Related Party Transaction:

The Company receives a monthly management fee from Lynbrook Tennis Time, LLC, a related party. Total management fees received for the year ended August 31, 1999 totalled \$84,365.

TRUHAN & SANDS, P.C.

CERTIFIED PUBLIC ACCOUNTANTS
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Independent Auditor's Report on Accompanying Information

Partners
Island Tennis, LP
Amagansett, New York

Our audit was made for the purpose of forming an opinion on the basic financial statements of Island Tennis, LP for the year ended August 31, 1999, pages 2 through 10, taken as a whole. The accompanying schedules of operations by location for the year ended August 31, 1999, contained on pages 12 through 13, are presented for purposes of additional analysis and are not a required part of the basic financial statements. Such information has been subjected to the auditing procedures applied in the audits of the basic financial statements and, in our opinion, is fairly stated in all material respects in relation to the basic financial statements taken as a whole.

Truhan & Sands CPA, PC

December 30, 1999

Schedule of Operations by Location
For the Year Ended August 31, 1999

	Bethpage	Kings Park	Amagansett	Massapequa	Home Office	Quogue	Eastern Const.	Atlantic Beach	Syosset Tennis	Roslyn	Syosset Fitness	TOTAL
Revenues												
Membership Dues & Fees	\$254,801	\$16,550	\$344,898			\$716,264		\$1,871		\$871,388	\$2,019,849	\$4,225,621
Tennis Court Time	366,770	405,495		\$190,550		121,181		60	\$616,432			1,700,488
Lessons	193,277	456,754	194,790	246,272		238,503		8,639	926,405	593,184		2,859,834
Leagues		124,705		100,869		52,750			312,897	242,551		833,772
Other Tennis	21,647	4,330		6,489		2,364			2,374	1,276	45,175	83,667
Health & Fitness			10,675			135,452		12			319,485	465,982
Multiport	100					10,787					1,488	545,077
Pro Shop	60	541	29,853	4		52,441		20	633,452			88,737
Food & Beverage			22,369			20,554		3	2,231	1,604		68,692
Children's Programs	20,448	71,968	222,127	18,342		428,550		6,368	125,550	30,900		924,253
Other	3,777	10,478	7,815	6,693	\$84,377	(7,112)		1,973	55,352	82,318	128,109	371,595
Construction							\$15					
Total Revenues	880,880	1,090,821	832,327	571,219	84,377	1,771,734	145,848	18,948	2,597,702	1,826,021	2,512,086	145,848
Operated Department Expenses							145,863					12,311,978
Tennis Court Time	115	111		78		300			1,829			2,433
Lessons	152,716	167,928	97,779	109,075		193,855		6,025	310,701	216,571	177	1,254,627
Leagues	30,309	32,405	49	26,324		15,461		1,438	47,479	70,724	38,653	260,842
Other Tennis	4,885	747		3,787		836		348	5,958	220		18,779
Health & Fitness			17,014			223,748					521,570	782,332
Multiport	5,046	1,735				8,049			224,055		2,478	241,363
Pro Shop			27,235			38,338			1,400	1,000		87,971
Food & Beverage			24,310			13,475		1,813	14,594			54,192
Children's Programs	9,363	42,458	91,579	3,000		227,609		5,937	23,680	7,638		411,484
Other	6,852	9,577	8,849	5,475		20,792			5,983	1,915	23,266	80,809
Construction							105,667					105,667
Total Operated Department Expenses	209,386	254,981	264,815	147,739	0	742,461	105,667	15,561	635,677	298,068	584,144	3,258,479
Gross Profit	651,494	835,880	567,512	423,480	84,377	1,029,273	40,186	3,385	1,962,025	1,527,953	1,927,942	8,053,497
Operating Expenses												
Member Svcs, Sales & Mktg	15,443	25,948	10,276	8,417	19,253	49,969	2,309	2,117	20,761	9,395	222,309	388,197
Repairs & Maintenance	38,044	57,188	83,595	34,025	34,580	175,607	56,377	4,350	132,437	69,858	103,220	789,281
Utilities	102,262	108,386	9,931	58,151	4,149	53,138		7,382	115,796	126,452	103,130	688,787
Housekeeping	14,521	16,707	4,887	19,197	14	29,727			44,517	94,823	101,813	326,519
Insurance	10,924	13,326	7,619	7,594	65,909	18,439	10,658	2,763	29,959	31,787	35,882	234,858
Real Estate Taxes	108,321	54,001	15,639	81,081		34,668			210,601	188,637	100,318	793,464
Rent									15,000			
Total Operating Expenses	289,515	275,566	131,947	208,465	123,905	361,546	69,653	31,612	687,944	520,952	932,872	3,633,779

	Bethpage	Kings Park	Amagansett	Massapequa	Home Office	Queque	Eastern Consl	Atlantic Beach	Gyosset Tennis	Roehyn	Gyosset Fitness	TOTAL
General & Administrative Expenses												
Bad Debt												
Bank Charges & Credit Card Fees	8,184	10,131	\$7,960	\$4,078	2,833	27,427	4,851	421	\$22,397	10,833	33,753	12,831
Computer Supplies	2,131	2,528	1,357	2,723	19,323	4,244	81	8	4,708	4,456	7,470	125,226
Contributions	100	50		100	1,400	485			360	95	50	49,009
Dues, Fees & Subscriptions	115	145	252	40	4,834	325			152	331	2,179	2,530
Recruitment Training Conferences	3,392	3,911	4,321	1,880	17,362	4,631	260	216	7,489	4,243	19,058	8,373
Office Equipment Rentals	1,345	1,431	784	1,253	4,809	1,705			6,312	4,355	1,144	66,467
Management Fees					27,625	2,923			2,175			23,354
License & Permits	240	208			21	1,155	267	323	405	1,526	222	278,723
Office Supplies	6,350	8,432	898	3,521	11,465	4,142	296		6,151	7,478	4,044	4,044
Postage Expense												
Postage & Messenger	4,879	5,084	1,964	2,748	8,358	7,782	1,238	271	13,262	7,519	8,178	6,178
Professional	4,751	2,849	4,899	3,257	292,452	3,120	229		4,326	29	19,782	72,705
Uniforms	1,708	1,836	682	1,033	1,256	2,128			2,977	2,230	18,037	335,720
Telephones	5,087	6,539	2,841	4,528	34,751	11,542	1,119	1,037	2,977	5,311	5,311	18,368
Travel & Lodging					13,872	77			13,567	11,865	11,212	104,168
Vehicle Leasing					63,060	239						13,749
Salaries	116,719	193,707	74,425	80,239	665,885	216,820	37,633	6,701	163,963	157,145	296,709	63,289
Payroll Expenses	12,862	21,036	8,078	6,547	72,604	23,567	4,135	851	19,983	17,085	32,281	2,014,140
Total General & Administrative Expenses	171,657	257,887	113,304	81,948	1,488,778	312,220	50,705	11,828	280,227	228,288	481,244	219,180
Total Operating and General & Administrative Expenses	461,172	533,453	245,251	300,413	1,612,833	673,766	120,360	43,540	878,171	750,250	1,383,916	7,112,925
Income before Interest Income, depreciation and amortization and interest expense	190,322	302,407	322,261	123,067	(1,528,256)	355,507	(80,184)	(40,155)	983,854	777,703	534,028	1,940,572
Interest Income	180,322	302,407	322,261	123,067	28,289	355,507	(80,184)	(40,155)	983,854	777,703	534,028	28,289
Overhead Allocation	(244,220)	(313,998)	(244,220)	(174,443)	(1,499,867)	(488,441)	(34,889)	0	(732,861)	(523,329)	(732,862)	1,980,981
Income before depreciation and amortization and interest expense	(53,898)	(111,591)	78,041	(51,378)	1,988,896	(132,934)	(115,053)	(40,155)	251,193	254,374	(188,838)	0
Depreciation & Amortization	(56,371)	(43,785)	(52,081)	(41,234)	(488,941)	(143,244)	(16,150)	(3,078)	(3,479)	(161,574)	(211,902)	1,218,848
Interest Expense	(20,734)	(5,498)	(3,267)	(210)	(1,485,342)	(9,831)	(3,280)	(148)	(605)	(832)	(24,856)	(1,564,708)
Net Income (Loss)	(\$131,003)	(\$60,884)	\$22,683	(\$92,820)	\$8,813	(\$288,109)	(\$134,483)	(\$43,382)	\$247,109	\$91,968	(\$435,396)	(\$915,894)

AMENDMENT TO AGREEMENT

DATED: FEB. 11, 2002

AMENDMENT TO LICENSE AGREEMENT

Dated February 11, 2002 by and between the Village of Mamaroneck ("the Village") and Island Tennis L.P. d/b/a Sportime ("Sportime"):

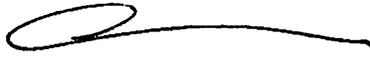
Notwithstanding anything to the contrary contained in the License Agreement dated February 11, 2002 (the "License Agreement"; terms not otherwise defined herein shall have the meanings set forth in the Agreement), in consideration of the passage of one and one half years since the parties first contemplated entering into the License Agreement and the changed circumstances of the parties as a result of the litigation which has been commenced by the former operator at Harbor Island Park as well as the revenue lost by the parties resulting from the preliminary injunction which prevented them from going forward with the License Agreement, the parties hereby agree to modify certain of the provisions of the License Agreement as follows:

1. The first five (5) years of the Term of the License Agreement shall be a program of only indoor and outdoor tennis at the existing tennis courts owned by the Village at Harbor Island Park (the "Tennis Program") for a maximum five year term (the "Tennis Program Term").
Feb 11, 2002
2. In order to effectuate the foregoing, The following terms and conditions shall supersede and replace the terms and conditions of the License Agreement which are inconsistent therewith:
 - A. During each of the first five (5) years of the Term, the Minimum Annual License Fee shall be \$75,000 dollars.
 - B. In lieu of the Improvements described in Section 5 of the Agreement, Sportime shall expend between \$600,000 and \$700,000 in capital costs for new bubbles, heating and inflation equipment which shall be fitted to the existing foundations and Sportime shall expend between \$75,000 and \$125,000 in capital costs to upgrade the existing clubhouse and tennis courts (collectively "Capital Costs") for use in the Tennis Program (the "Tennis Program Improvements"). In the event that the Improvements are required to be built, Sportime shall be credited with the amounts of the Capital Costs spent by Sportime and attributable to new bubbles, heating and inflation equipment and the Village shall also give due consideration to Sportime for that amount of the Capital Costs Sportime Expended to upgrade the existing clubhouse and tennis courts. Sportime will provide the Village with appropriate financial information reasonably acceptable to the Village detailing the foregoing expenditures.

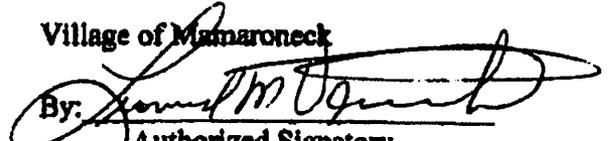
- C. The Village Board shall review and approve all plans for the Tennis Program Improvements promptly after presentation to the Board of such plans, it being the intention of the parties to complete the Tennis Program Improvements as promptly as possible.
3. During the Tennis Program Term, the Village may undertake a planning process for the development of recreational facilities at Harbor Island Park ("the Planning Period").
4. At the end of the Planning Period, or sooner if the Village elects, the parties may chose to further modify the License Agreement to provide for additional and/or other recreational facilities at the present location or other locations in Harbor Island Park.
5. At the end of the Tennis Program Term, the Village may elect, at its sole discretion, to terminate the License Agreement ("Early Termination").
6. In the event of Early Termination, the Village shall reimburse Sportime (the "Village Reimbursement") for 50% of the actual Capital Costs (based upon ten years straight line depreciation). Upon payment of the Village Reimbursement, Sportime shall transfer and assign all of its right, title and interest to the Tennis Program Improvements to the Village, free and clear of all encumbrances, or in the event there any encumbrances then same may not exceed the amount of the Village Reimbursement and the amount of any such encumbrances shall be deducted from the Village Reimbursement before payment is made to Sportime.
7. If the Village exercises Early Termination, for a period of thirty six (36) months after such Early Termination the Village may not have an independent operator conducting tennis or multi-sport operations at Harbor Island Park. This provision shall not, however, prevent the Village from operating any form of recreational activities at Harbor Island Park with its own employees.
8. Both parties agree that a waiver of performance by either party shall not act as a waiver of any future or continuing failure of either party to perform any of its obligations under this Agreement.
9. During the Tennis Program Term, in view of the fact that Sportime shall not be required to make the Improvements contemplated in the Agreement, Sportime shall not be required to place any additional security with the Village (other than \$50,000), as provided for in Section 18 of the Agreement. Notwithstanding the foregoing, Sportime hereby represents that as of August 31, 2001, its assets were no less than \$33,000,000 and the total of partner's loans and capital was no less than \$12,000,000.

10. The License Agreement shall in all other respects not inconsistent with the terms hereof remain in full force and effect.

Island Tennis, L.P. d/b/a Sportime
By: Island Tennis, L.P. Inc.
General Partner

By: 
Claude Okin

Village of Mamaroneck

By: 
Authorized Signatory

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