

For the purposes of the House of Representatives Commerce Committee:

Please see the highlighted section on page 2 for the agreement concerning alcohol on Arena grounds.

LAKE OF THE WOODS INTERNATIONAL ARENA USER AGREEMENT

THIS USER AGREEMENT (this "Agreement") is made as of May 10 2018, by and between the LAKE OF THE WOODS INTERNATIONAL ARENA BOARD, INC., a Minnesota nonprofit corporation (the "Board"), and INDEPENDENT SCHOOL DISTRICT 390 – LAKE OF THE WOODS, an independent school district under the laws of the State of Minnesota (the "School").

In consideration of the parties' mutual covenants and representations in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, the Board and School agree as follows with respect to the use of the ice arena, and related facilities and amenities located at the Lake of the Woods International Arena, _____ Baudette, Minnesota (the "Facilities"):

1. **Grant of Use.** Board hereby grants the School to use the arena(s) and the Facilities at such times as scheduled by Board and School and pursuant to the terms and conditions of this Agreement. Board shall use its best efforts to accommodate the preferred ice vendees as set forth in this Agreement.
2. **Payment.** School has agreed to sell to Board the real property on which the Facilities are located for a sum of One and 00/100 Dollars (\$1.00). Additionally, School shall provide lawn care and snow removal services at no cost to Board. Additional fees for ice time shall be reviewed by Board and School on an annual basis.
3. **Term.** The term of this Agreement shall be one (1) year, commencing within thirty (30) days after substantial completion of the Facilities. Such term shall renew automatically thereafter unless sooner terminated as provided herein.
4. **Annual Meeting.** Board shall meet with School to discuss topics regarding upcoming use during the next year. This meeting will include a budget from the board to be shared with the school. The timing of the meeting will depend upon agreement of both parties, but should occur before September 30, of each year.
5. **Use of Facilities.** Subject to the terms and conditions of this Agreement, Board agrees to provide and schedule arena ice time at the Facilities, including the right to use bleachers, ticket booths, scoreboards, sound systems, entrance and access areas to hockey rinks, parking lots, and dressing rooms and other amenities during the term of this Agreement. School's use of the Facilities shall be under the control, supervision and management of the Board for the purpose of maintenance, repair, and supervision of maintenance and repair of the Facilities.

School shall have the right to use the Facilities for on ice physical education classes, as needed, during the academic year, and for other activities during the entire calendar year subject to the approval

of Board's arena manager. During these times, School will assume cleaning responsibility for any necessary cleaning caused by class.

Board shall control all access to doors, nevertheless, School (particularly, its Superintendent and/or Principal(s)) shall have access to the Facilities at all times and have necessary keys for the same.

Any equipment stored by School in the Facilities is for the School's sole use and purpose. Board, and any other user of the Facilities, shall not, without the written consent of School, (1) be given access to School's equipment, (2) transfer School's equipment out of any storage room, or (3) use School's equipment.

Board, at its discretion, shall be permitted to grant third parties the ability to use the Facilities for non-School sponsored events. However, if the event host desires to serve alcohol during the event, the host shall seek advance written consent from School, which shall be granted or denied at the School's sole and absolute discretion. If such consent is provided, the event host shall then obtain a Conditional Use Permit and abide by any and all other governmental requirements.

Additionally, Board may install and maintain lit signage along Minnesota State Highway 11 on the adjacent real estate owned by School. School shall grant a perpetual easement to Board for the construction, use and maintenance of such signage. The signage shall highlight school activities, Facilities schedules, and local advertising.

The Board will approve on a case by case basis the School's right to use and display its trophies, awards and memorabilia, including jerseys, etc., in the areas designated and built for the same in the Facilities.

6. Preferred Ice Vendees. School acknowledges the Board will be leasing or selling "time use" of the arena(s) and/or Facilities to other parties. However, the first preferred ice vendee shall be School, and/or its successors and assigns, which shall be entitled to use of the arena(s) and Facilities at those times which are most convenient to said School to organize its activities. School shall have first choice of the time available for such use of the arena(s) and Facilities by giving written notice of its preferred schedule of activities to Board on or before August 1 of each year, preferably during annual meeting, which times shall include the use of the arena(s) and Facilities for school activities, and athletic practices and activities including games and other competitions, physical education and recreational activities included with the School's programming.

7. Insurance. At all times, Board shall, at Board's sole cost and expense, maintain general liability insurance in an amount of at least \$2,000,000.00 pertaining to the use of the arena(s) and Facilities. Board shall also, at Board's sole cost and expense, maintain any and all other requisite insurance policies, including, without limitation, real property insurance pertaining to the Facilities and the underlying real estate. All such policies shall name the Board as the insured and School as an additional insured, and proof of such insurances shall at all times be made available to School. School shall list the Board as additionally insured on School's policy that follows the above criteria.

8. Release and Indemnification. Board hereby waives all claims against School for any damage and/or injury to persons or property resulting from, or in any way connected with, the use of the arena(s) and Facilities by Board, its members and employees and all others using the arena(s) and Facilities at the invitation or under the authority of Board, except for claims arising from the gross negligence or willful misconduct of School. Board agrees to indemnify and hold harmless School, and its employees and agents from all liabilities, injuries, losses, actions, damages, costs and/or expenses (including reasonable attorney fees) arising from: a) the use of the arena(s) and Facilities by Board, its members, employees and all others using the arena(s) and Facilities at the invitation or under the authority of the Board, b) any failure by Board to perform any of its obligations under this Agreement, and c) any attorneys fees and costs incurred by School in enforcing this Agreement and the rights of School contained herein. Board's obligations under this provision shall expressly survive the termination or expiration of this Agreement for actions and events occurring prior to such termination or expiration.

9. Default and Remedies. In the event Board or School shall fail to perform any of their obligations under this Agreement, the Board and School must discuss and remedy the situation. If no remedy is met, a mediation process shall occur to resolve at both parties best interest.

10. Subordination. The Agreement shall be subordinate to:

Ice Arena Levy Agreement Lake of the Woods International Arena by and between the Board and the School, dated May 10, 2018, and any replacements, renewals, extensions or assignment thereof;

11. Notices. Except as otherwise provided herein, any notice to be given under this Agreement shall be given by mailing such notice by certified mail, return receipt requested, addressed to the other party at the address provided for the delivery of notices. Any party may change the party to whom such notice is to be given and/or its address by giving the other party notice of such change in the manner specified above at least ten (10) days prior to such change.

12. Rules/Regulations. Board and School shall abide by the rules and regulations of a public building and facility in the state of Minnesota. Board and School shall also cause all persons using the Facilities at their respective invitations or under their respective authority to abide by said rules and regulations. School shall supervise its employees, agents, members, invitees, fans and guests who attend events and activities at all times during the period the School uses the Facilities. Board shall supervise its employees, agents, members, invitees, fans and guests in all other circumstances. Notwithstanding anything to the contrary, Board and/or School shall have the right to deny the use to and/or immediately evict any person using the Arena at the invitation or under the authority of Board and/or School, if Board and/or School determines such person is creating a nuisance or endangering the Arena or other persons or property while at or within the Arena.

13. Unavailability of Facilities. Notwithstanding anything to the contrary contained herein, in the event the arena(s) and/or its Facilities are unavailable for School's use as a result of fire, casualty or Board's failure to operate or maintain the Arena and Facilities during the season, School's use of the arena(s) and/or Facilities shall be suspended until the arena(s) and/or its Facilities are available for

School's use. The Board may close the Facilities due to inclement weather. Inclement weather is defined as weather which causes School to close or cancel school on school days. If school is let out early, arena will remain closed for a minimum of two hours to allow for kids to go home. Arena, at the discretion of the Board, may open after that time. Board will consult with School prior to determination of closure and determine any parking needs to allow for snow removal. In circumstances where School has scheduled weekend tournaments and evening games scheduled, Board shall consult with School to make a joint determination on closure.

14. Property Tax Exempt Classification. In the event that a real estate tax exempt classification cannot be obtained or continued for the real property on which the Facilities are located as a result of this Agreement, Board shall be solely responsible for such real estate taxes and/or special assessments incurred.

15. Assignment or Transfer. Board may not resell, assign, transfer or sub-license the Agreement or the use of the Facilities granted pursuant to this Agreement without the prior written consent of the School. In the event Board desires to sell, assign, transfer or convey its interests in the Facilities and underlying real property, School shall be granted an option to acquire the Facilities and underlying real property for the sum of One and 00/100 Dollars (\$1.00).

16. Operating Costs Reconciliation. Electrical, water, and sewer services will be metered separately between the Facilities and the School, and installation of the Facilities' meters, connections, and usage will be the Board's sole responsibility. School permits Board to connect the Facilities' electrical system to School's existing generator system. Board shall pay School a user service fee based on the square footage of the Facilities compared to that of the School's building(s), or an average KW per Hour, from known use, whichever may be closer. The payments paid pursuant to this Agreement are subject to reconciliation with the Actual Operating Costs of the Facility.

If the Operating Cost Reconciliation results in Board's underpayment, Board shall promptly execute its consent to the amount as the "Operating Costs Adjustment," in which case Board shall pay said difference to School within thirty (30) days of Board's receipt of the proposed Operating Costs Adjustment setting forth such underpayment.

If the Operating Cost Reconciliation results in Board's overpayment, School shall promptly execute its consent to the amount as the "Operating Costs Adjustment," in which case School shall reimburse said overpayment to Board within thirty (30) days of Board's receipt of School's consent to Operating Costs Adjustment setting forth such overpayment.

17. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto, and their successors and assigns.

18. Counterparts. This Agreement may be executed in any number of counterparts, all of which together shall constitute the Agreement. Facsimile, scanned PDF or other electronic signatures shall be sufficient for all purposes.

19. Waiver. Except as expressly provided herein, (i) the waiver by a party of any breach of this Agreement or of any warranty or representation made herein, or (ii) the acceptance of payment or performance by a party after any such breach, shall not be deemed to be a waiver of any other breach of any kind, whether preceding or succeeding.

20. Severability. The unenforceability or invalidity of any provision of this Agreement shall not render any other provision contained herein unenforceable or invalid.

[Remainder of page intentionally left blank. Signature page to follow.]

BOARD:



BOARD CHAIR

LAKE OF THE WOODS INTERNATIONAL ARENA BOARD, a Minnesota non-profit corporation

SCHOOL:

INDEPENDENT SCHOOL DISTRICT

390 – LAKE OF THE WOODS

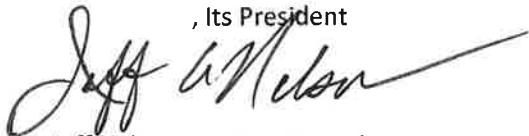
Board Chair :



Clerk :



, Its President



Jeff Nelson, Its Superintendent