





**VII. TERMS AND CONDITIONS**

- A. **Parties.** PGA Tournament Corporation, Inc., a Florida corporation (“PGA”) and the Company of Record (“Company”), acknowledge that the undersigned representative Company has read this Contract and agrees to abide by all terms, provisions, and conditions contained herein, inclusive of but not limited to all terms set forth in all Sections attached hereto, which are hereby incorporated by reference herein and made a part hereof.
- B. **Scope of Contract.** PGA hereby designates Company as a Chalet Package purchaser and leases to Company a hospitality Chalet (“Chalet”) at the 2008 PGA Championship (“Championship”). Hours of occupancy, rules and regulations related to the use of the Chalet, and other related information are set forth in Section VII. Together with the Chalet, PGA shall also provide and/or lease to Company the goods and services set forth in Section I (“Package”). PGA shall in all respects have the right to assign the space where the Chalet will be located.
- C. **Contract Price and Payment Terms.** The Contract price and payment terms applicable to this Contract are set forth in Sections I and III. Checks for payment will only be accepted from the Company of Record. No refunds will be made to Company with the exception of the invocation of the provisions set forth in Section VII.H relative to excuse of performance. All late payments shall be assessed a finance charge of 1-1/2% per month of the outstanding balance. PGA reserves the absolute right to cancel this Contract in the event Company fails to pay any fee in a timely manner. All figures are in U.S. dollars. PGA will only accept checks drawn from U.S. banks and in U.S. funds. PGA will not be responsible for any costs of collection or exchange. If Company shall fail for any reason (with the exception of excuse of performance provisions set forth in Section VII.H herein) to occupy or use the Chalet, no refund of fees shall be made and the full fees required pursuant to this Contract, including any disbursements or expense incurred by PGA in connection therewith, shall be retained by PGA as liquidated damages and not by way of penalty.
- D. **Contract Term.** The term of this Contract (“Term”) shall commence as of the acceptance date set forth on the first page of this Contract and shall terminate as of the conclusion of the Hours of Occupancy in which Company shall have the right to occupy the Chalet and use the furnishings therein from Monday, August 4 through Sunday, August 10 from gate opening until one (1) hour after the conclusion of play. Hours are subject to change based upon tee times and TV broadcast times. Company and Company’s guests will completely vacate the Chalet by the end of the period of occupancy except to remove all of Company’s personal property no later than 11:59 p.m. of the last day of the Championship or such later time as allowed by PGA by prior special written arrangement.
- E. **Championship Merchandise License.** Company hereby grants to PGA the exclusive right and license to place Company’s corporate logo, a trademark owned by Company (“Company’s Logo”) on “Dual Logo Championship Merchandise” defined as merchandise ordered by Purchaser from PGA, or PGA’s authorized representative, which contain the Company’s Logo and the Championship logo, which is a registered trademark owned by PGA (“Championship Logo”). Company agrees that it will not authorize any entity other than PGA or PGA’s authorized representative to place Company’s Logo on goods which contain the Championship Logo. PGA agrees that Company’s Logo shall be placed on Dual Logo Championship Merchandise only pursuant to Company’s written request in connection with an order to purchase such merchandise. PGA agrees not to use Company’s Logo for any other purpose. This license will expire upon expiration of the Contract. Company acknowledges that Dual Logo Championship Merchandise may be ordered by Company on a not-for-resale basis only. Dual Logo Championship Merchandise shall not be sold or distributed for resale under any circumstances. Dual Logo Championship Merchandise shall not be sold or distributed for resale or used in any consumer promotions of any nature or description, inclusive of but not limited to, sweepstakes prizes or consumer giveaways, under any circumstances.
- F. **Insurance Requirements.** See Section VIII.
- G. **Use of PGA Trademarks.** Company acknowledges that Company shall not use the Championship name or logo, or any other trademark owned by PGA or its affiliates, for any purpose without the prior written consent of PGA.
- H. **Excuse of Performance; Conditions.** The performance of this Contract by either party is subject to acts of God, war, government regulation or advisory, disasters, fire, accidents or other casualty, strikes or threat of strikes, civil disorder, acts and/or threats of terrorism, or curtailment of transportation services or facilities, or similar cause beyond the control of either party making it illegal, impossible or impracticable to hold, reschedule or relocate the Championship (as set forth below) and/or provide the Chalet. Either party may terminate or suspend its obligations under this Contract if such obligations are prevented by any of the above events to the extent such events are beyond the reasonable control of the party whose reasonable performance is prevented.
- I. Company acknowledges that in the event the Championship is postponed and if PGA reschedules the Championship at Oakland Hills Country Club or at a championship caliber golf course within a 250 mile radius of Oakland Hills Country Club prior to the end of calendar year 2008, and if the Hospitality Chalet is provided by PGA at the rescheduled Championship consistent with the provisions set forth herein, then Company shall be obligated to perform its obligations under this Contract. In the event the Championship is not rescheduled, Company shall be entitled to a full refund.
- J. Company acknowledges that in the event play is canceled for any reason at any time subsequent to the commencement of the Championship and the Chalet is operable (i.e., able to be used by Company for food and beverage consumption), Company shall not be entitled to receive any refund or pro-ration of fees.
- K. Company acknowledges that in the event the Chalet is destroyed or rendered unusable prior to the first scheduled day of occupancy and is not repaired for use during the term of occupancy, Company shall be entitled to receive a full refund. If the Chalet is operable for any portion of the term of occupancy and becomes inoperable at any time during the term of occupancy, Company shall be entitled to receive a refund based on a pro-ration of fees. For example, if the Chalet is operable for only two of the four days of the term of occupancy, Company shall be entitled to receive a refund of 50% of the fees.
- L. **No Warranties.** No representation, warranties or agreements, oral or written, expressed or implied, have been made by either party hereto with respect to this Contract, the Chalet, or the goods and services provided hereunder, except as are expressly stated herein. Although the Chalet and the amenities provided to Company pursuant to this Contract are obtained from sources believed to be reliable, they are taken “as is”, with no warranty of merchantability or fitness for any particular purpose.
- M. **Remedies.** In the event of any breach of this Contract by either party, the injured party’s sole and exclusive remedy shall not exceed the Contract price. Neither party shall be liable for any incidental or consequential damages resulting from the breach of the other party hereunder.
- N. **Indemnification.** Company hereby waives any and all claims against PGA, its parent company, affiliates, subsidiaries, Oakland Hills Country Club and each of their respective officers, directors, employees, agents and representatives (“PGA Indemnified Parties”) from all loss, cost, damage, expense and claim arising out of, resulting from or sustained in connection with:
  1. the Company’s use and occupation of the Chalet.
  2. any injury or damage occurring in or about the Chalet (with the exception of any injury or damage which is directly attributable to the negligence or willful or wanton misconduct of the PGA Indemnified Parties).
  3. any breach or default on the part of Company in the performance of any covenant to be performed pursuant to the Contract, except to the extent caused by the negligence or willful or wanton misconduct of any of the PGA Indemnified Parties. Company assumes all risk and liability for the use and the operation of the Chalet and the loss or damage of Company’s personal property arising from any action attributable to Company, its agents, employees, or other persons invited or admitted to the Chalet by Company. Company acknowledges that PGA is not responsible for Company’s property or the property of others.



- O. **Miscellaneous Provisions.** This Contract will take effect when it is executed by PGA, after having been executed by the Company and returned to PGA with the minimum deposit.
1. This Contract contains the entire agreement between the parties and for all purposes shall be deemed to have been executed under and subject to and constructed in accordance with the laws of the State of Florida.
  2. The terms of this Contract may not be changed or modified unless agreed to in writing and signed by both parties.
  3. All notices and other communications required to be given under this Contract shall be in writing and shall be addressed to the addresses on the signature page of this contract or to such other addresses as either party hereto shall be designated to the other in writing. Notices are effective upon receipt by the receiving party.
  4. This Contract and any rights herein granted are personal to the parties hereto and shall not be assigned, sublicensed, encumbered or otherwise transferred (in whole or in part) by either party without the prior written consent of the other party and any attempt at violative assignment, sublicense, encumbrance or other transfer, whether voluntary or by operation of law, shall be void and of no force and effect. Company expressly acknowledges that Company does not have the right to sell, sublicense or assign the Chalet, or any portions thereof, to any third party(s).
  5. If any term, covenant, condition or provision of this Contract or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Contract or application of such term or provision to any person or circumstance other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant, condition, or provision of this Contract shall be valid and shall be enforced to the fullest extent provided by law.
  6. This Contract shall be deemed to supersede all prior agreements between the parties in the respect to the subject matter addressed in the Contract.
  7. The Sections attached to this Contract shall be incorporated by reference herein and made a part of the entire agreement to the parties.
  8. Either party reserves the right to terminate this Contract, effective upon ten (10) days prior written notice to the other party, if such other party shall file in any court pursuant to any statute of either the United States or any state, a petition of bankruptcy or insolvency, or for reorganization, or for the appointment of a receiver or trustee of all or a substantial portion of such party's property or if such party makes an arrangement for the benefit of creditors, or a petition in bankruptcy is filed against such party.
  9. PGA may terminate this Contract upon ten (10) days' prior written notice if there occurs an "Adverse Change in Control". An Adverse Change in Control shall mean a transfer of effective voting control of Company to an entity that is a direct competitor of PGA, its subsidiaries or affiliates or a person or entity with, in PGA's discretion exercised reasonably and with a reasonable factual basis, an unsavory or otherwise adverse moral or business reputation, or whose business philosophy is inconsistent with the policies of PGA, its subsidiaries or affiliates.
  10. Any controversy or claim directly or indirectly arising out of or relating to this Contract, or the alleged breach thereof, or the interpretation thereof, shall be settled by arbitration administered by the American Arbitration Association then in effect. The award or decision rendered by the arbitrator shall be binding and conclusive and judgment may be entered upon such award in any court having jurisdiction thereof. Any controversy relating to the foregoing duty and obligation to arbitrate shall also be arbitrated as aforesaid.
  11. All obligations arising prior to the termination of this Contract and its Sections shall survive the termination or expiration of this Contract.
  12. PGA reserves the right to remove any person who interferes with others at the Championship and to exercise this authority through its agents or appropriate law enforcement officials
  13. During the Term and after dismantlement of the Chalet after the Term, PGA shall have no obligation to provide protection for Company's personal property or the personal property of any of Company's guests. PGA shall have no obligation to move, remove or dismantle any personal property of Company or any third party. If any personal property of Company or Company's guests is not removed as required herein prior to the time the Chalet is dismantled, PGA may move and remove any such personal property at

Company's risk and cost and dismantle and remove such property without further notice to Company. Company indemnifies PGA from any cost, expense or liability arising therefrom.

14. Company agrees to:
  - a) comply with PGA's daily wristband policy for all Company's guests.
  - b) use the Chalet in a safe and peaceful manner
  - c) not to allow trash, garbage, or rubbish to accumulate in or near the Chalet.
  - d) not to cause any disturbance to interfere with other Chalet guests' enjoyment of the Championship
  - e) use the Chalet consistent with the degree of decorum and respectful behavior appropriate for a major professional golf championship.
  - f) provide each Chalet guest with the necessary credential and identification furnished by PGA to Company for admission to the Chalet.
  - g) permit PGA, PGA's employees, concessionaires, agents and representatives to have free access to the Chalet at any time during the Term in order to service the area.
  - h) surrender the Chalet at the end of the Term and leave the Chalet and the furnishings in the same condition in which they existed at the date of the commencement of the term (ordinary wear and tear excepted).

**VIII. INSURANCE REQUIREMENTS.**

Company agrees to maintain at its own expense the following minimum amounts and kinds of insurance with insurance carriers that are acceptable to PGA:

A. Commercial General Liability Insurance with limits of no less than \$5,000,000 Combined Single Limit of Liability per occurrence and in the Aggregate. (A combination of primary General Liability coverage and Umbrella/Excess coverage may be used to meet this requirement.) Such insurance shall provide coverage as follows:

- B. Coverages:**
1. 1986 (or later) ISO Commercial General Liability Form (Occurrence Form)
  2. Products and Completed Operations coverage.
  3. Blanket Contractual Liability (included in 1986 ISO Form).
  4. Personal Injury
  5. Additional Insured Endorsement
  6. Automobile Liability Insurance covering owned, non-owned and hired vehicles with limits of no less than \$1,000,000 Combined Single Limit of Liability per occurrence.

C. Statutory Workers' Compensation Coverage and Employers' Liability Coverage with limits of no less than:

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| 1. Bodily Injury for Each Accident            | \$500,000. |
| 2. Bodily Injury by Disease for Each Employee | \$500,000. |
| 3. Bodily Injury for Aggregate                | \$500,000. |

D. **No Reduction or Limit of Obligation:** By requiring insurance herein, PGA does not represent that coverages and limits will necessarily be adequate to protect the Company, and insurance effected or procured by the Company shall not reduce or limit the Company's contractual obligation to indemnify and defend PGA for claims made or suits brought which result from or in connection with use of the Hospitality Facility under this Contract.

E. **Additional Insured:** The policy or policies providing insurance as required with the exception of Workers' Compensation shall defend and include PGA, Oakland Hills Country Club, their directors, officers, representatives, agents and employees as Additional Insureds on a primary basis as respects use of the Hospitality Facility under this Contract. If the Additional Insured has other insurance which is applicable to the loss, such other insurance shall be on an excess or contingent basis.

F. Company agrees to be responsible for the value of its own property whether insured or not and to waive any rights of subrogation against PGA and/or Oakland Hills Country Club. For its part, PGA will cause the owner(s) of the Hospitality Facility tent and its furnishings to assume liability for damages to such property and to waive its rights of subrogation against PGA, Oakland Hills Country Club, Company(s) and their respective employees, guests and invitees.