

## LEASE AGREEMENT

This Lease Agreement (this "Lease") is entered into by and between **The Order of St. Jerome Aemilian**, a New Hampshire voluntary corporation, with a mailing address of P.O. Box 162, Suncook, New Hampshire 03275, (hereinafter called the "**Lessor**") and the **Town of Allenstown**, a New Hampshire municipal corporation, with an address of 16 School Street, Allenstown, New Hampshire 03275 (hereinafter called the "**Lessee**").

In consideration of the mutual covenants and agreements herein contained, Lessor and Lessee agree as follows:

### 1. PREMISES

Lessor hereby leases to Lessee and Lessee leases from Lessor for the term, at the rental, and upon all of the conditions set forth in this Lease, a certain portion of the Lessor's land located on the easterly side of River Road, in said Allenstown, Merrimack County, New Hampshire, being a portion of the land conveyed to the Lessor by Fiduciary Deed of R. Peter Shapiro, Administrator w.w.a. of the Estate of Therese Plourde, dated October 6, 1998, and recorded in the Merrimack County Registry of Deeds at Book 2121, Page 0739 (see also Plan #12543 recorded with said Registry). The portion of said land being leased hereunder is more particularly described in Exhibit A, hereto (the "Leased Premises").

### 2. TERM

Lease Term. The term of this Lease shall be for a period of One (1) year beginning January 1, 2015 (the "Commencement Date") and ending December 31, 2015 unless sooner terminated pursuant to any provision hereof.

### 3. RENT; NET LEASE

Lessee hereby covenants and agrees to pay to Lessor at the Lessor's address mentioned above, rent of \$1.00 per year, which shall be due and payable on or before the first day of April of each lease year. Except as may otherwise be provided in this Lease, the parties intend that the rent to be paid to Lessor under this Lease shall be net to Lessor and that all costs and expenses relating to the Leased Premises or that may arise or become due during the term shall be borne entirely by Lessee, including, but not limited to, any real estate taxes attributable to the Leased Premises. The parties also agree and intend that such rent does not constitute the sole consideration for Lessor's lease of the Leased Premises, but that such consideration also includes all of Lessee's affirmative obligations hereunder.

### 4. LESSEE'S COVENANTS AND AGREEMENTS.

By entering into this Lease, Lessee covenants and agrees as follows, said covenants and agreements also being deemed rent hereunder:

- a) Lessee shall be solely responsible for securing, at its sole expense, any subdivision approval or other permits or license pertaining to Lessee's leasing of and its use and occupancy of the Leased Premises.
- b) Lessee agrees to enclose the Leased Premises by the erection of chain link, cyclone, or other suitable perimeter fencing. Lessor shall be supplied with keys to any and all locking devices for any gates or access ways.
- c) Lessee agrees that Pine Haven may itself make use of the Leased Premises for recreational purposes during periods when the Leased Premises are not being used by Lessee or Lessee's assigns as permitted hereunder.
- d) Lessee shall make the Leased Premises available for use by all athletic organizations in the Town of Allenstown, subject, of course, to reasonable scheduling parameters, and Lessee shall not discriminate on the basis of sex, age, race, religious preference, or national origin.
- e) Although Lessee shall have the right to erect lighting, subject to the provisions of Paragraph 6, below, Lessee agrees not to allow the Leased Premises to be used in any event before 9:00 a.m. and no later than 30 minutes after sundown in the event lighting is not installed or later than 10:00 p.m. if lighting is installed. Lessee may use the Leased Premises from 7:00 a.m. to 9:00 a.m. for activities that are not disruptive to Lessor's adjoining premises and the occupants of adjoining premises.

## 5. UTILITIES

Lessee shall be responsible for providing and for the payment of all utilities and services related to the Leased Premises including, but not limited to, electricity, telephone, water, and sewer/septic. Such utilities shall be held in the name of Lessee, and Lessee shall make direct payment to the utility providing such services.

## 6. USE; LESSEE IMPROVEMENTS

The Leased Premises shall be used for general recreational purposes, including, but not limited to athletic contests and practices for all sports for all seasons. In this regard, the Lessee shall have the right to grade, excavate, fill and landscape, and construct and install improvements on the Leased Premises to facilitate the use of the Leased Premises for recreational and athletic purposes, including the provision of vehicular parking for participants and spectators, provided that the Lessee complies with applicable codes and regulations. The Lessee, however, shall not make or allow to be made any such alterations, improvements or additions in or to the Leased Premises without the prior written consent of the Lessor, which consent shall not be unreasonably withheld, and except in compliance with the following requirements:

- . (a) Lessor Approval of Plans. The Lessee shall obtain the prior approval by

the Lessor of all construction drawings and specifications for such alterations, improvements, or additions provided that such approval shall not be withheld unless the proposed alterations, improvements or additions materially and adversely affect the value of the Lease Premises or the Lessor's retained premises. If the Lessor does not approve or object to such plans within ten (10) days of receipt, the Lessor's approval shall be deemed to be given. The Lessee shall be responsible for procuring all necessary permits and approvals prior to construction. Any alteration, improvement or additional to the Leased Premises shall be at the sole expense of the Lessee.

(b) Quality of Workmanship and Materials. In altering or improving the Leased Premises, the Lessee shall proceed in a good and workmanlike manner and shall use quality materials.

(c) Mechanics Liens. The Lessee covenants and agrees to indemnify the Lessor from any and all charges, expenses, losses, liens of any nature and any and all liability arising out of or in connection with any improvements, changes, or additions to the Leased Premises made by or on behalf of the Lessee. The Lessee shall not permit any mechanics' liens to be placed on the Leased Premises.

## 7. ORDINANCES AND STATUTES

Lessee shall ensure compliance with all statutes, ordinances and requirements of all municipal, state, and federal authorities now in force or which may hereafter be in force, pertaining to the use of the Leased Premises. No article or substance shall be kept on the Leased Premises which is illegal, dangerous or which may increase the insurance risk of the Leased Premises. No use other than that set forth in Paragraph 6 shall be conducted from the Leased Premises without specific written permission of the Lessor. No alcoholic beverages shall be permitted to be consumed on the Leased Premises. Lessee shall keep the Leased premises clean and sanitary and shall comply with all laws, health and policy requirements with respect to said premises and appurtenances, and to hold the Lessor harmless from all fines, penalties and costs for violation or noncompliances by Lessee with any said laws, requirements, or regulations and from all liability arising out of any such violations or noncompliance.

## 8. MAINTENANCE AND REPAIRS

Lessee shall, during the term of this Lease, and at its expense, maintain or cause to be maintained, all components of the Leased Premises, including but not limited to all Lessee improvements thereto and thereon. Lessee shall also be responsible for keeping all roadways, walkways, and yard areas properly maintained and safe for their intended use, including snow removal and sanding/ice removal. Lessee shall, at its own expense, and at all times maintain the Leased premises in a clean and sanitary manner. Lessee shall be solely responsible for damages caused to the Leased Premises by any cause whatsoever. Lessee shall keep Lessor's surrounding grounds clear of rubbish for a perimeter of fifty (50) feet beyond the boundaries of the Leased Premises. Lessor shall incur no expense

nor have any obligation of any kind whatsoever in connection with maintenance of the Leased Premises.

## 9. INSURANCE

A. Liability and Contents Insurance. Lessee shall, at its sole expense, maintain in effect at all times during the term of this Lease insurance coverage for general, liability, bodily injury and property damage, with limits acceptable to Lessor and placed with insurers of recognized financial responsibility licensed to do business in New Hampshire.

These policies shall be on a form acceptable to Lessor, endorsed to include Lessor as an additional insured, shall include a Waiver of Subrogation in favor of the Lessor, and, when applicable, shall state that the insurance is primary over any insurance carried by Lessor. The general liability policy shall include the following coverages:

- i. Premises/Operations;
- ii. Independent Contractors;
- iii. Broad Form Contractual in support of the Indemnity Section (Paragraph 11) of this Lease;
- iv. Personal Injury Liability; and
- v. Fire and Extended Coverage Insurance covering any personal property located on the Premises, for the full insurable value thereof.

Evidence of all insurance coverages (represented by Certificates of Insurance issued by the insurance carrier) must be furnished to the Lessor before Lessee takes possession. Certificates of Insurance should specify the additional insured status mentioned above as well as the Waiver of Subrogation. The Certificate of Insurance shall state that Lessor will be notified in writing thirty days before cancellation, material change, or renewal of insurance.

## 10. RISK OF DAMAGE

All property on the Leased Premises shall be at the sole risk of Lessee and Lessor shall not be liable to Lessee or any other person for any injury, loss, damage, or inconvenience occasioned by any cause whatsoever to said property.

## 11. INDEMNIFICATION

Lessee agrees to indemnify Lessor against all loss, damage, liability or expense, including Lessor's reasonable attorneys' fees, arising out of claims of injury to the Lessee, or its guests, invitees, or employees, or to third parties, or their property in connection with Lessee's use or occupancy of the Leased Premises, or from other activity, work, or

things done, permitted or suffered by Lessee in or about the Leased Premises, or resulting from any act, failure to act, or negligence of Lessee or its agents, employees, contractors, licensees or invitees, or anyone claiming under Lessee, or from any nuisance made or suffered on the Leased Premises.

#### 12. FIRE AND OTHER CASUALTY: LESSEE'S OPTION TO TERMINATE OR REPAIR

If at any time during the term of this Lease, the Leased Premises or any portion thereof are substantially damaged or destroyed by fire or other casualty, Lessee shall have the election to terminate this Lease or to repair and reconstruct the Leased Premises to substantially the same condition in which they existed immediately before that damage or destruction. For purposes of this paragraph 12, the Leased Premises shall be considered "substantially damage, or destroyed" if the damage or destruction is such that the Leased Premises cannot, in Lessee's opinion, reasonably be expected to be repaired and reconstructed within three (3) months, or if the applicable insurance proceeds will likely be insufficient to cover the costs of such repair and reconstruction. If Lessee elects to terminate this Lease, then Lessee shall properly remove and dispose of all damaged or destroyed portions of the Leased Premises, and restore the Leased Premises to the same, or better, condition (as determined by Lessor) as existed at the commencement of this Lease.

#### 13. ASSIGNMENT AND/OR SUBLETTING

Lessee may not assign, mortgage, pledge, encumber or otherwise transfer its rights under this Lease, or sublet all or any portion of the Leased Premises, without the prior written consent of Lessor.

#### 14. CONDEMNATION OR RESTRICTION ON USE

A. Termination of Lease on Total Taking. In the event the entire Leased Premises shall be appropriated or taken under the power of eminent domain by any public or quasi-public authority, this Lease shall terminate as of the date of such taking.

B. Lessee's Election to Terminate on Partial Taking. In the event of a partial taking that, as reasonably determined by Lessee, renders the remainder of the Leased Premises not reasonably suitable for Lessee's use, the parties shall use their best efforts to agree to modifications of such terms and conditions of this Lease as the parties deem desirable for the continuation of this Lease notwithstanding such taking; provided, however, that if no such agreement has been reached within ninety days of the taking, Lessee and Lessor shall each have the right to elect to terminate this Lease by giving the other notice in writing of such election within thirty days after the expiration of such ninety-day renegotiation period, failing which this Lease shall terminate.

C. Entitlement to Award. All rights to compensation and damages created, accrued, or accruing by reason of any such total or partial taking, appropriation, or condemnation,

shall belong to the Lessor, except for any portion of any award attributable to improvements made to the Leased Premises by Lessee which portion shall be paid to Lessee.

D. Notice of Condemnation. Lessor agrees to give Lessee written notice of the intention of any such authority to appropriate or take immediately after it receives written notice of such fact.

E. Voluntary Sale as Taking. A voluntary sale by Lessor to any public body or agency having the power of eminent domain, either under the threat of condemnation or while condemnation proceedings are pending, shall be deemed to be a taking under the power of eminent domain for the purposes of this paragraph.

## 15. SURRENDER

On the last day of the term hereof, or on any sooner termination, Lessee shall surrender to Lessor the Premises, together with all alterations, additions, and improvements thereto in a condition the same as or better than when made, reasonable wear and tear excepted, and such alterations, additions, and improvements shall thereupon become the property of the Lessor, provided, however, that Lessor shall have no liability for any costs or charges or injuries or damage attributable to the same arising during or attributable to Lessee's term of occupancy and possession.

## 16. DEFAULTS AND REMEDIES.

A. Default by Lessee. The occurrence of anyone or more of the following events shall constitute a default of this Lease by Lessee:

- i. Lessee's abandonment of or failure to use and occupy the Leased Premises as described in Paragraphs 4, 6, and 7;
- ii. The failure of Lessee to make any payment of rent or any other payment required to be made by Lessee hereunder, as and when due, where such failure shall continue for a period of ten days after the applicable due date;
- iii. The failure by Lessee to observe or perform any of the covenants, conditions or provisions of this Lease, where such failure shall continue for a period of fifteen days after written notice thereof from Lessor to Lessee; provided, however, that if the nature of Lessee's failure is such that more than fifteen days are reasonably required for its cure, then Lessee shall not be deemed to be in default if Lessee commences such cure within said fifteen-day period, provides written notice thereof to Lessor, and thereafter diligently prosecutes such cure to completion;

B. Remedies for Default of Lessee. In the event of any default by Lessee as provided above Lessor may at any time thereafter, upon notice and demand and without limiting

Lessor in the exercise of any other right or remedy which Lessor may have by reason of such default or breach:

- i. Terminate Lessee's right to possession of the Premises by any lawful means, in which case this Lease shall terminate and Lessee shall immediately surrender possession of the Leased Premises to Lessor; and/or
- ii. In the event of a failure by Lessee under Paragraph 16A, iii, above, undertake such cure, for which Lessee shall be liable to reimburse Lessor for all expenses incurred by Lessor in the pursuit of such cure; and/or
- iii. Recover from Lessee any amount necessary to compensate Lessor for all detriment caused by Lessee's failure to perform its obligations under the Lease; and/or
- iv. Pursue any other remedy now or hereafter available to Lessor under the laws or judicial decisions of the State of New Hampshire.

## 17. SIGNS

To the extent permitted by law, Lessee shall have the right, at Lessee's own expense, to install, maintain, or replace such signs as may be from time to time commonly used or adopted by Lessee for the purpose of identifying its occupancy of the Leased Premises, provided, however, that Lessor shall have the right to review and approve the proposed design, size, and location of such signs, which approval will not be unreasonably withheld.

## 18. GENERAL PROVISIONS

### A. Estoppel Certificate

- i. As Lessor shall reasonably require for the purpose of sale or financing or voluntary encumbrances, Lessee shall at any time upon not less than ten days' prior written notice from Lessor execute, acknowledge and deliver to Lessor a statement in writing (a) certifying that this Lease is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Lease, as so modified, is in full force-and effect) and the date to which the rent and other charges are paid in advance, if any, and (b) acknowledging that there are not, to Lessee's knowledge, any uncured defaults on the part of the Lessor hereunder, or specifying such defaults if any are claimed. Any such statement may be conclusively relied upon by any prospective purchaser or encumbrancer of the Premises.
- ii. Lessee's failure to deliver such statement within such time shall be conclusive upon Lessee (a) that this Lease is in full force and effect, without modification except as may be represented by Lessor, (b) that there are no uncured defaults in Lessor's performance, and (c) that not more than one year's rent has been paid in advance.

iii. If Lessor desires to finance or refinance the Leased Premises, or Lessor's overall Premises, Lessee hereby agrees to deliver to any lender designated by Lessor, copies of its annual financial statements or such other financial information ordinarily prepared by the Lessee which the Lessor's lender may reasonably require. All such information shall be received by Lessor in confidence and shall be used solely for the purposes herein set forth.

B. Severability. The invalidity of any provision of this Lease, as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provision hereof.

C. Time of Essence. Time is of the essence in the performance of all terms and conditions of this Lease.

D. Captions. Article and paragraph captions have been inserted solely as a matter of convenience and such captions in no way define or limit the scope or intent of any provision of this Lease.

E. Notices. Any notice required or permitted to be given hereunder shall be in writing and may be served personally or by certified or registered mail, return receipt requested, addressed to Lessor and Lessee respectively at the addresses set forth in the introductory paragraph of this Lease, or such other addresses as may from time to time be designated in writing by Lessor or Lessee by notice pursuant hereto.

F. Waivers. No waiver of any provision hereof shall be deemed a waiver of any other provision hereof. Consent to or approval of any act by one of the parties hereto shall not be deemed to render unnecessary the obtaining of such party's consent to or approval of any subsequent act. The acceptance of rent hereunder by Lessor or the payment of rent by Lessee shall not be a waiver of any preceding breach by Lessee or by Lessor of any provision hereof, other than the failure of Lessee to pay the particular rent so accepted, regardless of knowledge of such preceding breach at the time of acceptance or payment of such rent.

G. Cumulative Remedies. No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

H. Inurement; Choice of Law. Subject to the provisions restricting assignment or subletting by Lessee, the terms and conditions contained in this Lease shall bind the parties, their personal representatives, successors, and assigns. This Lease shall be governed by the laws of the State of New Hampshire.

I. Subordination; Attornment. This Lease shall, at Lessor's option, be either superior or subordinate to any mortgage or mortgages on the Leased Premises or Lessor's overall premises, whether now existing or hereafter created. Lessee shall upon written demand by Lessor execute such instruments as may be required from time to time to subordinate the rights and interest of Lessee under this Lease to the lien of any such mortgage, or, if requested by Lessor, to subordinate any such mortgage to this Lease. In the event of



foreclosure under any such mortgage, Lessee shall, if so desired by the mortgagee, become a Lessee of and attorn to the successor-in-interest to Lessor on the same terms and conditions as are contained in this Lease.

J. Lessor's Access. In addition to rights to access provided elsewhere in this Lease, Lessor and Lessor's agents shall have the right, upon reasonable prior notice to Lessee and in the presence of Lessee or its agent (except in cases of emergency, in which case such prior notice and the presence of Lessee or its agent shall not be required) to enter the Premises at reasonable times for the purpose of inspecting the same, showing the same to prospective purchasers, lenders, or insurance representatives.

K. Number; Gender. Whenever the context of this Lease requires the singular number includes the plural, and the masculine, feminine or neuter gender includes its counterparts.

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_

LESSOR  
THE ORDER OF ST. JEROME AEMILIAN

By:  
Its:  
duly authorized

LESSEE  
TOWN OF ALLENSTOWN

By:  
Its:  
duly authorized

STATE OF NEW HAMPSHIRE

COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_

of The Order of St. Jerome Aemilian

Notary Public \_\_\_\_\_  
My commission expires \_\_\_\_\_

STATE OF NEW HAMPSHIRE  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_  
\_\_\_\_\_ by \_\_\_\_\_ of the Town of Allenstown, New  
Hampshire.

Notary Public \_\_\_\_\_  
My commission expires \_\_\_\_\_