

**REIMBURSEMENT AGREEMENT FOR
PROMOTION OF TOURISM
(BRADENTON AREA RIVERFEST REGATTA EVENT)**

THIS REIMBURSEMENT AGREEMENT ("Agreement"), is made and entered into as of June 18, 2019, by and between the City of Bradenton, a municipal corporation of the State of Florida (hereinafter "Sponsor") and Manatee County, a political subdivision of the State of Florida (hereinafter "County").

WITNESSETH

WHEREAS, the County has established a Convention and Visitors Bureau for Manatee County to promote travel and tourism to, and events in, the County, through among other things, the use of proceeds of the County's tourist development tax in the manner contemplated in Section 125.0104, Florida Statutes and other legally available funds of the County; and

WHEREAS, Sponsor intends to sponsor a "Bradenton Area RiverFest Regatta" (hereinafter "Event"), through a separate agreement between Sponsor and ISM/USA, an LLC corporation (hereinafter "Organizer"), which will act as owner and organizer of the Event; and

WHEREAS, the Event will serve as an attractor for travel and tourism to Manatee County; and

WHEREAS, it is in the best interest of the County, and serves the mission of the County's Convention and Visitors Bureau, to support the Event to enhance travel and tourism to the County, by reimbursing Sponsor for a portion of the costs of organizing, promotion and staging of the Event in the manner set forth herein.

NOW, THEREFORE, the County and Sponsor, in consideration of the mutual covenants hereinafter set forth, the sufficiency of which is hereby acknowledged, Agree as follows:

1. EVENT

A. **Event**. The Sponsor shall, either directly or through its agreement with Organizer, organize and stage the Event, providing the services described in Exhibit "A", attached hereto and incorporated herein by reference.

B. **Promotion of Event to Tourists**: For the purpose of promoting the Event to tourists, Sponsor shall provide the advertising and promotion services described in Exhibit "B", attached hereto and incorporated herein by reference.

C. **Reimbursable Costs**: The actual and direct costs incurred by Sponsor in providing or procuring the services set forth in Subsections 1.A. & 1.B. shall be considered Reimbursable Costs for the purposes of this Agreement, and no other costs shall be considered Reimbursable Costs.

2. REIMBURSEMENT. The County shall reimburse Sponsor for Reimbursable Costs, in an aggregate amount not to exceed two hundred thousand dollars (\$200,000) subject to the following provisions:

A. **Valid Reimbursable Costs: Compliance With Obligations**: The County shall reimburse Sponsor for only such Reimbursable Costs as are validly incurred in accordance with the requirements of this Agreement. The County's obligation to provide such reimbursement shall be subject to compliance by Sponsor with its obligations under the Agreement.

B. Submission of Written Request and Invoices: In order to receive reimbursement, Sponsor shall provide the County with a written request, to be submitted to the County, together with (1) written invoices and proofs of payment (a copy of each invoice and a copy of the front and back of each cancelled check or evidence of completed wire transfer), and (2) documentation acceptable to the County reasonably necessary to identify the Reimbursable Costs incurred and funded.

C. Processing and Payment: The County shall, within ten (10) days of receipt, review the invoice and either approve the invoice for payment or request from Sponsor additional information. If the invoice is approved for payment, the County shall remit payment to Sponsor within forty-five (45) days of the date of the original submittal to the County representative. If any amount in the request is disputed by the County, the County shall, as soon as practicable, notify Sponsor and make partial payment of the amount which is not in dispute pursuant to this paragraph. Sponsor and the County shall meet within seven (7) days of the County notification to attempt to resolve any disputed amounts.

D. Availability of Funds: The County intends to fund the reimbursements to be made hereunder with proceeds of the County's tourist development tax. The obligation of the County to reimburse Sponsor for Reimbursable Costs hereunder is subject to the discretion of the Board of County Commissioners to budget legally available funds, including without limitation proceeds of the County's tourist development tax, as well as other revenues, in amounts sufficient to fund such reimbursements. Accordingly, this Agreement shall not be construed to constitute a debt or general obligation of the County, or to result in a pledge of or lien upon any revenues of the County, including without limitation general revenues or proceeds of the County's tourist development tax.

3. ADDITIONAL OBLIGATIONS OF SPONSOR.

A. Promotion of Tourism in Manatee County. Sponsor shall ensure that all services provided or procured pursuant to Sections 1.A. and 1.B., above, shall include promotion of the Bradenton Area as a tourism destination through the placement of the Bradenton Area Convention and Visitors Bureau logo on all printed or on-line marketing materials. Sponsor shall provide samples, printed proofs or tear sheets, as the case may be, verifying inclusion of such logo together with invoices submitted pursuant to Section 2.

B. Marketing and Promoting Event. Sponsor shall ensure that at least \$20,000 is spent on marketing, promoting, and advertising event outside of Manatee County. Sponsor shall provide proof by providing listing of marketing and advertising efforts along with printed proofs or tear sheets as verification of the out of county promotion of the event.

C. Use of Subcontractors: Sponsor may administer this program itself, or by the use of one or more contracting agents, including without limitation, the Organizer and its subcontractors. However, the use of such contracting agents by Sponsor shall not operate as an assignment of its rights or responsibilities under this Agreement. To the extent Sponsor makes use of such contracting agents, Sponsor shall provide copies of any subcontract agreements to the County Administrator upon execution, and shall provide the County with all contact information of the person designated by Sponsor to coordinate the program. Any subcontracting or other agreements Sponsor may enter pursuant to this program shall not name the County as a party. Sponsor shall be solely responsible for paying Organizer from Sponsor's own revenues, and for assuring performance of Organizer pursuant to the agreement between Sponsor and Organizer. Sponsor shall make all such agreements and related records available for inspection as otherwise may be required by law.

D. Financial Records and Accounting: Sponsor shall keep and maintain financial records related to the Event in accordance with generally accepted accounting principles, and shall allow the County or its agents to review and audit same at any time upon reasonable notice. Sponsor shall make all such records

available for inspection as otherwise may be required by law. Sponsor or Organizer shall be responsible for any governmental/regulatory fees or taxes associated with the Event.

4. DURATION AND TERMINATION. This Agreement shall remain in effect for a term of one (1) year with three (3) options to extend for an additional year, for total of four (4) years. Either party may upon giving notice ninety (90) calendar days prior to the expiration of the term, elect to not renew this Agreement without cause for any reason, Sponsor will ensure that any and all contracts it enters into with contracting agents and advertisers are subject to the County's right of termination pursuant to this paragraph. Upon termination, Sponsor shall provide a final invoice to the County, and the County shall make a final reimbursement then due to Sponsor for all eligible costs incurred on or prior to the date of termination under the Agreement.

5. INDEMINIFICATION; INSURANCE.

A. To the extent permitted by law (and the tort liability limitations set forth in Sections 768.28, Florida Statutes shall also apply to any actions to enforce this Agreement, or any provisions herein) each of the parties hereto shall indemnify and hold harmless the other, and its officers and employees, from liabilities, damage, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentional wrongful conduct of the indemnifying party and other persons employed or utilized by the indemnifying party in the performance of the Agreement. This provision shall survive the termination of this Agreement. Sponsor shall require the inclusion of a similar provision (without the foregoing tort limitations set forth in Section 768.28) in its agreement with Organizer (and any agreement with any other subcontractor of Sponsor), providing for indemnification of Sponsor and County by Organizer. Sponsor shall also require that Organizer include such a provision in all contracts between Organizer and Organizer's subcontractors.

B. Sponsor, Organizer, and all participating subcontractors, shall carry and provide insurance coverage for the Event, in types and amounts acceptable to the County's risk management official, and provide satisfactory proof of such insurance, naming the County as an additional insured on all applicable insurance policies, no later than ten (10) days in advance of the Event.

6. CATASTROPHIC EVENTS. No party shall be liable for any failure to perform, or delay in the performance of, any obligation under this Agreement if such failure is caused directly by a hurricane, tornado, fire, earthquake, civil commotion or failure or disruption of utility services, or other like cause beyond the reasonable control of the party obliged to perform.

7. NOTICES. All notices, comments, consents, objections, approvals, waivers, and elections which any party shall be required or requested or may desire to make or give under this Agreement shall be in writing and shall be given only by hand delivery for which a receipt is obtained, or certified mail, prepaid with confirmation of delivery requested or facsimile transmission. All such communications shall be addressed to the applicable addresses set forth below or as any party may otherwise designate in the manner prescribed herein.

To the County:

Executive Director
Bradenton Area Convention and Visitor Bureau
P.O. Box 1000
Bradenton, FL 34206
(941) 729-9177
(941) 729-1820 (fax)

To Sponsor:

Mayor
City of Bradenton
101 Old Main Street
Bradenton, FL 34205
(941) 932-9400
(941) 932-9548 (fax)

8. DISCLAIMER OF THIRD-PARTY BENEFICIARIES. This Agreement is solely for the benefit of the parties hereto, and no right, privilege, or cause of action shall by reason hereof accrue upon, to, or for the benefit of any third party, including without limitation, Organizer, and subcontractors of Sponsor and Organizer, and any providers of promotional, advertising or other services, or goods, purchased by Sponsor. Nothing in this Agreement is intended or shall be construed to confer upon or give any person, corporation, partnership, trust, private entity, agency, or other governmental entity any right, privilege, remedy, or claim under or by reason of this Agreement or any provisions or conditions hereof.

9. CONSTRUCTION.

A. Entire Agreement: This Agreement represents the full agreement of the parties.

B. Equal Construction: Each of the parties hereto has had equal input into drafting of this Agreement such that no provision of this Agreement shall be construed strictly against one party as the drafter thereof.

C. Headings and Captions: The headings and captions of articles, sections, and paragraphs used in this Agreement are for the convenience of reference only and are not intended to define or limit their contents, nor are they to affect the construction of or be taken into consideration in interpreting this Agreement.

10. AMENDMENTS; WAIVERS; ASSIGNMENT.

A. Amendments: This Agreement may be amended only pursuant to an instrument in writing that has been jointly executed by the parties hereto and duly authorized and approved by the Board of County Commissioners of the County and by Sponsor.

B. Waivers: Neither this Agreement nor any portion of it may be modified or waived orally. However, each party (through its governing body or properly authorized officer) shall have the right, but not the obligation, to waive, on a case-by-case basis, any right or condition herein reserved or intended for the benefit or protection of such party without being deemed or considered to have waived such right or condition for any other case, situation, or circumstance and without being deemed or considered to have waived any other right or condition. No such waiver shall be effective unless made in writing with an express and specific statement of the intent of such governing body or officer to provide such waiver.

C. Assignment: The rights and obligations of either party to this Agreement may be assigned to a third party only pursuant to a written amendment hereto.

11. VALIDITY. Each of the County and Sponsor represents and warrants to the other its respective authority to enter into this Agreement.

12. SEVERABILITY. The provisions of this Agreement are declared by the parties hereto to be severable. In the event any term or provision of this Agreement shall be held invalid by a Court of competent jurisdiction, such invalid term or provision of this Agreement should not affect the validity of any term or provision hereof; and all such terms and provisions hereof shall be enforceable to the fullest extent permitted

by law as if such invalid term or provision had never been part of this Agreement; provided, however, if any term or provision of this Agreement is held to be invalid due to the scope or extent here thereof, then, to the extent permitted by law, such term or provision shall be automatically deemed modified in order that it may be enforced to the maximum scope and extent permitted by law.

13. **GOVERNING LAW; VENUE.** This Agreement shall be governed by the laws of the State of Florida. Venue for any action to enforce any of the provisions of the Agreement shall be in the Circuit Court of the Twelfth Judicial Circuit in and for Manatee County, Florida, or, to the extent any proceeding is removed to federal court, the United States District Court for the Middle District of Florida, Tampa Division.

14. **REMEDIES.** Each party hereto shall have such remedies as are available pursuant to applicable law for any breach or non-performance by the other party.

15. **ATTORNEYS FEES AND COSTS.** Each party hereto shall be solely responsible for paying its attorneys fees and costs in any dispute, litigation, dispute resolution proceeding, settlement negotiation or pre-litigation negotiation arising under this Agreement.

16. **EFFECTIVE DATE.** This Agreement shall take effect as of the date set forth above

WHEREFORE, the parties hereto have executed this Agreement as of the date and year first above written.

**MANATEE COUNTY, a political subdivision
of the State of Florida**

By: Board of County Commissioners

By: _____
County Administrator or Designee



**CITY OF BRADENTON, a municipal
corporation of the State of Florida**

By: Wayne Poston
Mayor/Pro Tem

Wayne Poston

ATTEST: Sharon Beauchamp, City Clerk

Sharon Beauchamp

EXHIBIT "A"
DESCRIPTION OF EVENT

2020 BRADENTON AREA RIVERWALK REGATTA
SATURDAY, February 8, 2020

7 a.m. to 10:00 a.m.	DeSoto Little Anglers Fishing Tournament <i>Palmetto Pier</i>
8 a.m. to 11:00 a.m.	St. Stephen's 5K Run <i>Starts Downtown Bradenton to Palmetto and back</i>
10 a.m. to 6:30 p.m.	<u>BRADENTON RIVERWALK FESTIVITIES</u> World Champion Frisbee Dogs Show World Champion BMX Stunt Show World Champion "XPOGO" Show Family Fun Zone – Bright House/Pittsburgh Pirates Area Food Festival Riverwalk Art Gallery Row- Manatee County Arts Center
11 a.m. to 6:30 p.m.	<u>RIVERWALK CONCERTS- TBA</u> <i>At Main Stage behind Riverwalk Splash Pad</i>
11 a.m. to 6 p.m. Noon to 1:00 p.m. 1:00 p.m. to 2:00 p.m. 2 p.m. to 3:30 pm	<u>MANATEE RIVER FESTIVITIES</u> Formula 2 PowerBoat Qualifying Formula 2 PowerBoat Division 2 Races HydroCross Jet Ski - Qualifying Florida Winter Championship/Mayor's Cup
3:30 to 5 p.m.	Formula 2 PowerBoat Division 1 Races Formula 2 PowerBoat Florida Championship Zambelli International Fireworks Spectacular Main Street Bradenton Awards/Activity
6:30 p.m. 7 p.m. to 10pm	
7a.m. to 6:30pm 11a.m. to 5 p.m.	<u>PALMETTO FESTIVITIES</u> HydroCross Jet Ski...Demos/Stunts/Races Florida Winter Championship/Mayor's Cup Guinness World Records <i>At Palmetto Pier</i>
10 a.m. to 6 p.m.	PowerBoat Superleague Official "Dry Pit" <i>PowerBoat Viewing/Open Lawn Access Across from Riverside Boat Ramp</i> Launching of PowerBoats Before qualifying Runs/Riverside Boat Ramp <i>At Regatta Pointe Marina</i> Food Festival Row <i>At Riverside West Park</i> Extreme Sports Zones – Locations TBD Family Fun Zones – Locations TBD Art Gallery Row – Locations TBD
11a.m. to 6:30 p.m.	<u>SUTTON PARK CONCERTS - TBA</u>

**The above activities are an anticipated list, which can be changed with mutual agreement between the Executive Directors of the Bradenton Area CVB and the Sponsor without amending the exhibit.*

EXHIBIT "B"

DESCRIPTION OF REIMBURSABLE COSTS:

Examples of Reimbursable Costs are as follows, but are not limited to:

Development, Coordination, Planning

- Logistics of the event programming
- Crowd control plan/venue layout
- City and government event approval meeting
- Marketing, advertising, promotions and social media planning
- Meeting with all permit agencies and government officials to produce event.

Installment Payments

- To various contractors to hold the event such as Zambelli International, Powerboat Super League, show promoters, and concert promoters/talent.
- Schedule of Installment Payments totaling \$200,000:
 - July 1, 2019 \$50,000
 - Planning/Operations/Public Safety
 - Contracting Deposit – Powerboat Super League (1st Deposit)
 - September 1, 2019 \$50,000
 - Planning/Operations/Public Safety
 - Contracting Deposit – Zambelli International
 - November 1, 2019 \$50,000
 - Planning/Operations/Public Safety
 - National Concert Talent Deposit
 - National BMX Show Deposit
 - National Dog Show Deposit
 - International XPOGO Deposit
 - Powerboat Super League (2nd Deposit)
 - December 1, 2019 \$50,000
 - Planning/Operations/Public Safety (\$30,000)
 - Advertising/Promotions (\$20,000) **Outside of Manatee County**