

**FACILITIES USE AGREEMENT BETWEEN  
NAPA VALLEY UNIFIED SCHOOL DISTRICT, CITY OF NAPA,  
AND NAPA VALLEY TENNIS ASSOCIATION**

This Facilities Use Agreement (“Agreement”) is made and entered into as of the date that all three parties have signed it (“Effective Date”), by and between Napa Valley Unified School District (“District”), the City of Napa, a California charter city (“City”), and Napa Valley Tennis Association (“NVTA”). The District, City, and NVTA are sometimes referred to herein individually as a “Party” and collectively as the “Parties.”

**RECITALS**

- A. Pursuant to Education Code section 35160, the governing board of any school district may initiate and carry on any program, activity, or may otherwise act in any manner which is not in conflict with or inconsistent with, or preempted by, any law and which is not in conflict with the purposes for which school districts are established.
- B. District is the owner of certain real property located at 1375 Trower Avenue, Napa, California (the “School Site”).
- C. The School Site contains eight (8) tennis courts, a tennis building (which includes two restrooms, storage and kitchenette) and courtyard area (“Facilities”), which are the subject of this Agreement and depicted in the attached Exhibit A.
- D. The City desires to ensure the public use of the Facilities and to cooperate with NVUSD and NVTA in scheduling use of the Facilities.
- E. The Parties hereto agree that it is to their mutual benefit to enter into an agreement providing NVTA, and the City for the benefit of the public, non-exclusive use of the Facilities, under the terms and conditions set forth herein.

**NOW, THEREFORE**, in consideration of the covenants and conditions of this Agreement, including the Recitals hereof, which are incorporated herein by this reference, the Parties agree as follows:

1. Grant of License.

a. To NVTA. In consideration of the NVTA obligations and other terms of this Agreement, District hereby grants to NVTA a non-exclusive license (“NVTA License”) to use the Facilities between the hours of 8 a.m. to 8 p.m., seven (7) days per week. The rights granted to and the obligations imposed on NVTA herein shall extend to NVTA’s officers, agents, employees, volunteers, members and independent contractors. Notwithstanding the foregoing, NVTA agrees to provide use of the Facilities for District matches, tournaments, and, in extenuating circumstances, practices (“District Use”). District Use shall be allowed not more than twenty (20) times per year, for four to six hours each time. In District discretion, District

Use shall be for all or a portion of the Facilities. District shall make best efforts to provide NVTA with reasonable advance notice of said activities, which shall be discussed during the bi-annual meetings required by Section 8 below. During times of District Use, NVTA may request use of the lower courts shown on Exhibit A that are not part of the Facilities, and District will allow such use of the lower courts, if available, on the terms and conditions applicable to the Facilities set forth herein.

i. Access. NVTA, its employees, volunteers, licensees, guests of the NVTA members, and NVTA members (“NVTA Parties”) shall have a reasonable right of ingress and egress to the Facilities, including vehicular access for maintenance of the Facilities, and to prepare for special events, as depicted in Exhibit A. Any vehicular access shall be subject to prior notice to the District and the requirement that a District-designated staff member be present on the Premises and any associated costs of such staff member shall be the responsibility of NVTA. NVTA shall only utilize the access routes designated on Exhibit A to access the Facilities for use by NVTA Parties and deviation from such designated access routes shall be expressly prohibited. NVTA Parties shall not pass through the School Site on days when school is in session (“School Days”) or interfere with any educational activities on the School Site in exercising its rights of ingress and egress to the Facilities. NVTA Parties agree that the indemnification, defense and hold harmless obligations set forth in Section 17 shall extend without limitation to any liability, claims, loss, damages, or expenses (including attorneys’ fees and fees of any required experts or consultants) that occur as a result of NVTA Parties’ deviation from the designated access routes. Any NVTA Party, guest, member or non-member accessing the Facilities between 8:00 a.m. and 4:00 p.m. on School Days must be fingerprinted, wear a badge issued and approved by NVUSD, and display NVUSD issued and approved signage in or on his or her vehicle.

ii. Parking. Parking of cars by NVTA Parties shall be limited to NVTA’s hours of permitted use stated in this Section 1. Parking for NVTA Parties shall be limited to the back parking lot off of Jefferson Street from Monday through Friday, and the front staff parking lot off of Trower Avenue on Saturday and Sunday, depicted in the attached Exhibit B. At all times, parking for NVTA Parties shall be at their own risk. Parking in District lots pursuant to this section shall be on a first-come, first-serve basis, and NVTA understands that said parking lots may also be used by the District and other third parties. Any additional vehicle access or parking closer to the Facilities, shall be subject to prior approval from District’s maintenance staff.

iii. Lighting. During the months of November through March, NVTA shall be permitted to use fence lighting outside of the days and hours of District Use. Such use of lighting shall be subject to prior approval from District’s maintenance staff, which shall also be required to approve the location(s) and placement of said lighting.

b. To City. In consideration of the City obligations and other terms of this Agreement, District hereby grants to City for the benefit of the public a non-exclusive license (“City License”) to use the Facilities on Sundays between the hours of 3 p.m. to 7:00pm (or sunset whichever one comes first based on available daylight) (“Public Hours”), with the exception of the July 4<sup>th</sup> weekend (or nearest weekend to July 4<sup>th</sup>) which the Facilities will be closed to the public due to an annual event scheduled by NVTA. Use by the public shall be

subject to the same limitations contained in Section 1(a) above related to use, access, and parking. City shall facilitate public use and scheduling of the Facilities as set forth in Section 8. NTVTA shall ensure the gates are unlocked and remain unlocked for the Public Hours to allow the courts to be open for public use and shall lock the gates at the end of each day of Public Hours. NTVTA will provide a schedule of volunteers who will be unlocking and re-locking the gates to City's designee by the first day of each quarter (e.g. January 1<sup>st</sup> for January 1st-March 30<sup>th</sup>; April 1 for April 1<sup>st</sup>-June 30<sup>th</sup>)

2. License Fee. Commencing on the Effective Date, NTVTA agrees to pay, and District agrees to accept as a license fee for the use of the Premises, the amount of Two Thousand Five Hundred Dollars (\$2,500.00) per year ("NVTA License Fee"), which will be paid by December 1 of each year of the Term. Failure to pay the License Fee by the tenth day of any such month shall constitute a material breach of this Agreement and may result in termination of this Agreement by the District pursuant to Section 4 herein. Commencing on the first anniversary of the Effective Date and on each anniversary date thereafter, the NVTA License Fee shall be increased for the succeeding year based upon the percentage change in the Consumer Price Index for All Urban Consumers (CPI-U) for the San Francisco Area issued by the United States Bureau of Labor Statistics ("CPI"). In addition to the NVTA License Fee, NTVTA agrees to pay a monthly fee ("Pro Revenue Fee") of one hundred eighty dollars (\$180.00), to be paid on or prior to the first day of each month of the Term. For every month in which a tournament or tournaments will be held on the Premises, NTVTA agrees to pay a tournament fee ("Tournament Fee") equal to two hundred dollars (\$200.00), per tournament to be paid on or prior to the first day of the month in which the tournament(s) is or are held. The Pro Revenue Fee and Tournament Fee shall be subject to annual review, and the District reserves the right to adjust the Pro Revenue Fee and Tournament Fee. In exchange for the City License, City shall comply with of its obligations under this Agreement but shall not be required to pay any compensation to the District.

3. Term of Agreement. The term of this Agreement ("Term") shall be for a five-year period commencing on the Effective Date, unless such Term is earlier terminated as provided in this Agreement. NTVTA and City shall have two (2) options to renew the Term each for an additional two (2) years on the same terms and conditions agreed to by the Parties, by providing written notice to District at least six (6) months prior to the expiration of the Term or a previously-exercised renewal term. The NVTA License and City License shall be deemed automatically revoked upon the expiration or earlier termination of this Agreement.

4. Termination.

(a) Termination for Cause. This Agreement may be terminated by NTVTA, City or District at any time for cause. "Cause" shall consist of a breach of any material provision of this Agreement, and the failure of the breaching Party to cure the breach within thirty (30) days of being notified of the breach (unless a different cure period is specifically required by the terms of this Agreement). Such a termination shall become effective immediately upon the expiration of the thirty (30) day cure period, unless such cure is completed to the reasonable satisfaction of the non-breaching Party. If District terminates this Agreement for Cause, then District may bring an action to recover from NTVTA any amount necessary to compensate District for all detriment

caused by NVTA's failure to perform its obligations under this License including violations of District Policies by NVTA or the NVTA Parties. In the event of termination by District for Cause, District shall be entitled to retain any amount of the NVTA License Fee paid pursuant to Section 2 hereof.

(b) Termination in the Event of an Emergency Order. In the event of an order from federal, state, or local authorities requiring the closure of the District's school sites, the District may cease operations as necessary to comply with such order(s) and may terminate this Agreement by providing seven (7) days' written notice to NVTA and City.

(c) Termination for Other Reasons. District shall have the right, upon one hundred twenty (120) days' written notice to NVTA and City, to terminate this Agreement in the event that District determines such termination is necessary due to changes in security or policies by the District. NVTA and City shall also have the right, upon one hundred twenty (120) days written notice to the District to terminate this Agreement.

(d) No later than the effective date of the expiration or earlier termination of this Agreement, the NVTA License and City License shall terminate, and NVTA and City shall cease to access and use the Facilities, and NVTA Parties and the public shall immediately vacate the Facilities. NVTA shall leave the Facilities, including all fixtures and temporary installations thereon such as lighting, in a clean condition, ordinary wear and tear excepted. NVTA shall be responsible for the cost of any damage caused to the Facilities and/or the affected portions of the School Site as set forth herein.

Notwithstanding the above, unless otherwise agreed to in writing by District and NVTA, no later than the effective date of the expiration or earlier termination of this Agreement, NVTA shall promptly remove all of its personal property and all temporary installations including lighting related to the Facilities at its sole cost and expense and shall return the affected portions of the Facilities to a clean condition with all utilities capped, ordinary wear and tear excepted. If NVTA fails to so remove its personal property from the Facilities and repair the affected portions of the Facilities in strict accordance with the terms of this Section and subject to District's reasonable satisfaction, District shall have the right to retain or remove and dispose of all such items and repair any damage caused thereby, and NVTA shall remain fully liable to District for the reasonable cost of any such removal, disposal and repair and shall remit payment to District within no more than thirty (30) days after receipt of an invoice from District.

(e) The remedies given to District in this Section or elsewhere in this Agreement shall not be exclusive but shall be in addition to all remedies now or hereafter available at law or in equity.

5. Liens and Claims. NVTA shall promptly pay in full all costs associated with NVTA's use of the Facilities, and any equipment, furnishings, furniture, trade fixtures or other items for the Facilities that NVTA shall cause to be delivered to the Facilities and shall timely pay in full all persons who perform labor for NVTA's use of the Facilities. If any mechanics' or materialmen's liens or any other liens or claims for any work done or items furnished at NVTA's request are filed against the Facilities or the School Site, NVTA shall promptly remove the liens

and claims at NVTA's own expense. If NVTA fails to remove the liens or claims and any judgment is entered thereon or thereunder, NVTA shall pay that judgment. Should NVTA fail, neglect, or refuse to remove any such liens or claims or to pay any judgment, District shall have the right to pay any amount required to release any such liens or claims, or to defend any actions brought on the liens or claims and to pay any judgment entered on the liens or claims, and NVTA shall be liable to District for all costs, damages, reasonable attorneys' fees, and any amounts expended in defending any proceedings or in the payment of any of said liens or claims or any judgment obtained therefor. District may record, post, and maintain upon the facilities a notice of non-responsibility. NVTA shall not encumber by any security instrument, all or a part of NVTA's interest under this License or Agreement without the prior written consent of District, and upon such terms and conditions as District may require.

6. Facilities Provided in "As Is" Condition. The Facilities are provided on an "as is" basis. District shall not be required to make or construct any alterations including structural changes, additions, or improvements to the Facilities. By using and occupying the Facilities pursuant to this Agreement, NVTA and the City accept the Facilities in "as is" condition. NVTA and the City acknowledge that neither the District nor District's agents have made any representation or warranty as to the suitability of the Facilities to NVTA and City. Any agreements, warranties, or representations not expressly contained herein shall in no way bind either District, City or NVTA, and District, City and NVTA expressly waive all claims for damages by reason of any statement, representation, warranty, promise or agreement, if any, not contained in this Agreement.

District shall have no responsibility for NVTA's or City's maintenance of applicable health measures or standards at the Facilities as described in Sections 7 and 8, below, including but not limited to compliance with Federal, State, and local orders or mandates enacted in relation to COVID-19 or other communicable diseases, with which NVTA and City shall fully comply at their sole cost and expense. NVTA and City shall have sole responsibility to provide equipment or services, including personal protective equipment ("PPE") or protective barriers, that are required by any such orders or mandates.

7. Limitations on Use; Compliance with Law.

(a) The Facilities shall be used only for tennis-related purposes and shall be limited to providing tennis lessons for NVTA members, and lessons for non-members on other than School Days, practice sessions, recreational tennis, and league tennis, including through or in conjunction with the HITS program and City Parks and Recreation. Any person entering the Premises or School Site shall be subject to the requirements of Section 1(a)(i). Non-members using the Facilities shall be deemed NVTA Parties for purposes of this Agreement.

(b) The Parties shall comply with all federal, state, local and District laws, statutes, codes, ordinances, rules, regulations, policies and requirements regarding use of the Facilities, as presently enacted or hereafter amended or issued ("Law").

(c) To the extent that any license or permit is required to operate the Facilities, NVTA and City agree that they will obtain and will maintain, any necessary permits, approvals,

and licenses for the operation and maintenance of the Facilities. District agrees to reasonably cooperate with NVTA in obtaining or maintaining any such permits, approvals, or licenses and will execute any applications, certificates, or other documents required in connection therewith at no cost to the District.

(d) NVTA nor City shall use or permit the Facilities to be used, occupied, or improved under this Agreement in any manner or for any purpose that is in any way in violation of any Law.

(e) NVTA and City will not permit the possession or consumption of alcohol or the use of tobacco products by its employees, volunteers, licensees, or invitees at the School Site or in the Facilities. If NVTA wishes to use the Facilities for fundraising or special events such as tournaments, NVTA must provide at least six (6) weeks' advance notice and obtain prior written consent from the District.

(f) All materials, equipment, and supplies provided or used by NVTA or the City at or on the Facilities shall fully conform to all applicable Law. NVTA nor City shall be permitted to store any supplies or equipment containing Hazardous Substances (as that term is defined herein) on the School Site or Facilities.

(g) Under no circumstances shall NVTA be permitted to use the Facilities for income-generating activities. For purposes of this Agreement, an income-generating activity shall mean any activity from which NVTA or any of its employees, officers, contractors, or any other person using the Facilities under this Agreement generates income or profit. Notwithstanding the foregoing, in consideration of the Pro Revenue Fee, NVTA shall be permitted to charge fees for lessons and clinics with a professional tennis instructor, provided that NVTA utilizes software to register all such lessons and clinics to track such income, and makes such information available to the District upon request. Notwithstanding the foregoing, NVTA may also charge membership fees to its members, tournament registration fees and related fees and costs.

(h) NVTA and City shall comply with all applicable federal, state, local, and the District laws, regulations, ordinances, policies, procedures, state executive orders and public health orders regarding student health and safety, including all applicable Laws related to COVID-19 and other infectious diseases.

8. Scheduling. District, City, and NVTA shall meet bi-annually in December and June of each calendar year to determine and agree upon Facilities scheduling for the succeeding tennis season, and to discuss concerns from any of the three Parties to this Agreement. City shall facilitate all such meetings and use best efforts to mitigate any conflict between the Parties regarding Facilities scheduling. District, City and NVTA shall each designate a scheduling representative or representatives to coordinate the scheduling.

9. Right of Entry. At no time shall NVTA or City have sole or exclusive access to or use of the Facilities, and District and its officers, agents, and employees shall have the right to enter the Facilities, at reasonable times for the purpose of inspecting the same and making such

alterations, repairs or improvements to the Facilities as the District may deem necessary or desirable. The District shall have the right to access the Facilities in the event of an emergency, upon twenty-four (24) hours' notice if feasible. District shall at all times maintain keys to the Facilities.

District reserves the right, in its sole and absolute discretion, to take any actions or precautions it deems necessary to protect the safety and security of staff and students on the School Site. Such actions may include, without limitation, installation of fencing or other security measures and/or limitation of access to the School Site and Facilities. District shall have the right, in its sole and absolute discretion, to make any changes to the times or terms of use hereunder if necessary to accommodate said security measures.

10. Maintenance and Repairs; Custodial Obligations. During NVTA's and City's use of the Facilities, at its sole cost and expense, NVTA shall maintain the Facilities in a safe, clean, and hygienic condition. This shall include keeping all improvements, surfaces, and landscaping swept and clear of debris, and ensuring that all rubbish is removed from the Facilities at the end of each day. NVTA shall be solely responsible for removal and off-hauling for the disposal of trash and recyclable materials at its sole cost and expense. NVTA shall be responsible for and shall pay for any routine, day-to-day repairs to the Facilities ("Routine Repairs") that do not require any breach or disturbance of the floor, ceiling, or walls of any structure, or boring under any outdoor surface ("Invasive Repairs"). District shall be responsible for any such Invasive Repairs. NVTA shall not permit any vehicles to enter the Facilities without prior written consent from the District.

If District determines, in its reasonable discretion, that NVTA has failed to maintain the Facilities in a safe, clean, and hygienic condition, or make Routine Repairs required by this Section 10, the District will notify NVTA in writing of such failure, and shall include in such notice an itemized list of the deficiencies and the required manner and timeline for correcting each item. In the event that NVTA fails to correct the items listed by the District within the specified timeline, or another timeline, as mutually-agreed upon between the Parties, the District may make the corrections and invoice such costs to NVTA, in accordance with the District's usual billing practices. Payment for such costs will be made by NVTA within thirty (30) days of receipt of invoice.

With regard to any outdoor area contained within the Facilities ("Outdoor Space"), NVTA must provide the District with the name of any individual or entity performing groundskeeping or landscaping work, as well as contact and insurance information. Any person accessing the School Site or the Facilities pursuant to this Section shall be subject to the indemnification and repair obligations set forth in this Agreement, as well as the fingerprinting, badge, and signage requirements contained in Section 1. NVTA shall be responsible for routine maintenance of the yard and landscaping within the Outdoor Space, but shall not perform any work or repairs on the District's irrigation system.

11. Alterations and Improvements. NVTA shall make no alterations, improvements, or modifications ("Improvements") to the Facilities, whether temporary or permanent, without the prior written consent of the District and notice to the City. NVTA shall use best efforts to

request such consent in writing at least six (6) months prior to commencing the Improvements in question, and in no circumstances shall such consent be requested less than four (4) months prior to commencing the Improvements in question. District reserves the right to impose reasonable requirements on any such Improvements including without limitation that: (a) District and NVTA must agree on a schedule for the work, which shall take place outside of school hours, (b) District shall have the right to review and approve the contractor(s) to be used and confirm that said contractor(s) possesses the requisite qualifications, certifications, licenses, and insurance coverage, and (c) work on the Improvements will not take place on weekends and holidays unless NVTA reimburses the District for any associated staff time. Any permitted Improvements shall be undertaken in a good and workmanlike manner, in accordance with applicable law and this Agreement. NVTA shall, if required by law, and prior to commencement of construction, obtain all necessary approvals from the California Office of Public School Construction and any other building authorities.

Unless otherwise agreed in writing by the Parties, any such Improvements to the Facilities, other than temporary installations, shall become the sole and exclusive property of the District upon completion. For the avoidance of doubt, temporary installations shall include any changes or modifications related to lighting, signage, or similar items.

12. Signage. NVTA shall not place any signage on the School Site or Facilities without prior written consent of the District. The District shall have final approval over the signage, but shall not unreasonably deny its location, design or content. NVTA shall remove the signage on termination of this Agreement, and must restore the School Site and Facilities, following removal of the signage, to the condition existing prior to installation of the signage.

13. Taxes. NVTA shall be responsible for any and all possessory interest taxes that may arise out of NVTA's use of the Facilities.

14. Utilities. NVTA will be responsible to pay a flat rate of six hundred dollars (\$600.00) per year, payable in monthly installments of fifty dollars (\$50.00) each, on or before the first day of each month of the Term ("Utility Fee"). The Utility Fee shall be deemed to represent NVTA's and City's share of charges for electricity, water, gas, sewage, or any other utility used or consumed on the Premises, excluding waste and recycling. The Utility Fee shall be annually increased by a minimum of CPI. Additionally, the Utility Fee shall be subject to annual review, and the District reserves the right to adjust the Utility Fee based on increased utility costs. To the extent feasible, District will provide NVTA with an accounting of such increased costs at the annual review.

15. Hazardous Substances. NVTA shall not use, maintain, or keep any Hazardous Materials, other than ordinary cleaning supplies and waste, on or in the Facilities without the District's prior written approval. NVTA shall promptly give notice to the District of any Hazardous Materials dispersal or spill, or Hazardous Materials claim, of which it becomes aware. NVTA shall indemnify, defend, and hold the District harmless from any and all claims, costs, damages, penalties or liabilities arising out of NVTA's use or release of any Hazardous Materials at, in or on the Facilities. The foregoing indemnification obligation shall survive the expiration or earlier termination of this Agreement. The term "Hazardous Materials" as used in this Agreement shall



mean any products, substances, chemical, material or waste whose presence, nature, quantity and/or intensity of existence, use, manufacture, disposal, transportation, spill, release or effect, either by itself or in combination with other materials expected to be on the Facilities, is either (a) potentially injurious to the public health, safety or welfare and environment of the Facilities, (b) regulated or monitored by any governmental authority, or (c) a basis for liability of District to any governmental agency or third party under any applicable statute or common law theory. Hazardous Materials shall include, but not be limited to, hydrocarbons, MTBE, petroleum, gasoline, crude oil, or any products, by-products, or fractions thereof. Notwithstanding anything contained herein to the contrary, willful or negligent breach of NVTA's obligations under this Section may, at the District's discretion, result in immediate termination of this Agreement.

16. Insurance.

(a) Coverage Required. Before the commencement of this Agreement and during the Term of this Agreement, NVTA shall obtain and maintain, at its expense, with insurance companies acceptable to District, the following insurance policies covering the Facilities:

(i) Comprehensive general liability insurance for bodily injury, personal injury, and property damage, and including products and completed operation and non-owned and hired automobile coverage, with liability limits of not less than Two Million Dollars (\$2,000,000.00) per occurrence, and Five Million Dollars (\$5,000,000.00) aggregate. This liability insurance shall also include coverage for professional liability for vehicles owned, non-owned, and hired for use by NVTA.

(ii) If not included in the above, property insurance covering damages to all buildings and improvements installed on the Facilities by NVTA, with a coverage amount equal to the replacement value of the applicable buildings and improvements installed.

(ii) Automobile liability insurance for bodily injury, personal injury and property damage for vehicles owned, non-owned, or hired, with policy limits or not less than Two Million Dollars (\$2,000,000.00) combined single limit.

(b) Insurance Provisions.

(i) The policies described in Subsection (a) above shall: (i) name District as an additional insured and be provided on an occurrence basis; (ii) state that such policy is primary, excess, and non-contributing with any other insurance carried by District; (iii) state that the naming of an additional insured shall not negate any right the additional insured would have had as claimant under the policy if not so named; and (iv) state that not less than 30 days written notice shall be given to District before the cancellation or reduction of coverage or amount of such policy.

(ii) A certificate issued by the carrier of the policies described in Subsection (a) above shall be delivered to District upon District's request. Each such certificate shall set forth the limits, coverage, and other provisions required under this Section. A renewal certificate for each of the policies described above shall be delivered to District not less than thirty (30) days before the expiration of the term of such policy. Coverage shall be subject to District's approval

and shall carry a rating of A:X or higher, unless otherwise agreed to in advance by District, and insurance company shall be admitted and licensed in California to transact insurance coverage and issue policies.

(iii) The policy described in Subsection (a) above may be made part of a blanket policy of insurance so long as such blanket policy contains all of the provisions required in this Section and does not reduce the coverage, impair District's rights under this Agreement, or negate or decrease NVTA's obligations under this Agreement.

(iv) NVTA agrees that if NVTA does not take out and maintain such insurance as required by this Section, then District may (but shall not be required to) procure said insurance on NVTA's behalf and charge NVTA the premiums, together with a 10% handling charge, payable upon demand.

(c) Worker's Compensation Insurance and Employer's Liability Insurance. NVTA shall obtain worker's compensation insurance coverage for no less than the statutory limits, and employer's liability insurance coverage with limits not less than One Million Dollars (\$1,000,000.00) for all persons whom it employs or may employ under this Agreement. This insurance shall be in strict accordance with the requirements of the most current and applicable State Worker's Compensation Insurance Laws. Such coverage shall remain in effect throughout the Term of this Agreement. NVTA shall provide a certificate(s) of insurance and endorsements reflecting the above policies on forms acceptable to District upon District's request.

(d) City Insurance Obligations. Before the commencement of this Agreement and during the Term of this Agreement, City shall obtain and maintain, at its expense, with insurance companies acceptable to District, insurance policies covering the Facilities to the extent utilized by the public under the City License.

17. Indemnification by NVTA. Except to the extent caused by the gross negligence or willful misconduct of District or any person or entity under its explicit direction or control, NVTA shall indemnify, defend, and hold District, its officers, agents, employees, members of its Board of Trustees and the property of District, including but not limited to the Facilities and the School Site, free and harmless from any and all liability, claims, loss, damages, or expenses (including attorneys' fees and fees of any required experts or consultants) resulting from NVTA's occupation and use of the Facilities and School Site, specifically including, without limitation, any liability, claim, loss, damage, or expense arising by reason of:

(a) The death, illness, or injury of any person, including without limitation any student or any of NVTA's employees, guests, invitees, or agents, from any cause whatsoever as a direct or indirect result of NVTA's use and/or occupancy of the Facilities or School Site while that person is in, on, or about the Facilities or School Site or in any way connected with the Facilities or School Site or with any of NVTA's personal property on the Facilities or School Site;

(b) The death, illness, or injury of any person, including any student or any of NVTA's employees or agents, or by reason of the damage to or destruction of any property, including property owned by NVTA or any person who is an employee or agent of NVTA, caused or allegedly caused by either (1) any condition of the Facilities or School Site created by NVTA or

its employees or agents, or (2) any act or omission on the Facilities or School Site by NVTA or any person in, on or about the Facilities or School Site with the permission and consent of NVTA;

(c) The damage to or destruction of any property, including property owned by NVTA or by any person who is an employee or agent of NVTA, from any cause whatsoever as a direct result of NVTA's use and/or occupancy of the Facilities or School Site while that property is in, on or about the Facilities or School Site or in any way connected with the Facilities or School Site or with any of NVTA's personal property on the Facilities or School Site;

(d) Any work performed on the Facilities or School Site or materials furnished to the Facilities or School Site at the instance or request of NVTA or any person or entity acting for or on behalf of NVTA; and

(e) NVTA's failure to perform any provision of this License or to comply with any requirement of applicable law or any requirement imposed on NVTA or the Facilities by any duly authorized agency or political subdivision.

18. Indemnification by City. Except to the extent caused by the gross negligence or willful misconduct of District or NVTA or any person or entity under the District's or NVTA's explicit direction or control, City shall indemnify, defend, and hold District, and NVTA, their officers, agents, employees, members of their Board of Trustees and the property of District and NVTA, including but not limited to the Facilities and the School Site, free and harmless from any and all liability, claims, loss, damages, or expenses (including attorneys' fees and fees of any required experts or consultants) resulting from: (a) the public's occupation and use of the Facilities and School Site during the times permitted by the City License, or (b) the negligent or intentional misconduct or breach of this Agreement by the City or its employees or agents. The indemnification and defense obligations herein shall specifically include, without limitation, any liability, claim, loss, damage, or expense arising by reason of:

(i) The death, illness, or injury of any person from any cause whatsoever as a direct or indirect result of public use and/or occupancy of the Facilities or School Site during the times permitted by the City License while that person is in, on, or about the Facilities or School Site or in any way connected with the Facilities or School Site or with any personal property on the Facilities or School Site;

(ii) The death, illness, or injury of any person, or by reason of the damage to or destruction of any property, caused or allegedly caused by either (1) any condition of the Facilities or School Site created by the City or its employees or agents, or (2) any act or omission on the Facilities or School Site by the City or any person in, on or about the Facilities or School Site with the permission and consent of the City during the time permitted by the City License;

(iii) The damage to or destruction of any property, including property owned by NVTA or by any person who is an employee or agent of NVTA, from any cause whatsoever as a direct result of public use and/or occupancy of the Facilities or School Site during the times permitted by the City License while that property is in, on or about the Facilities or School Site or in any

way connected with the Facilities or School Site or with any personal property on the Facilities or School Site;

(iv) Any work performed on the Facilities or School Site or materials furnished to the Facilities or School Site at the instance or request of the City or any person or entity acting for or on behalf of the City; and

(v) City's failure to perform any provision of this License or to comply with any requirement of applicable law or any requirement imposed on City or the Facilities by any duly authorized agency or political subdivision.

19. Indemnification by NVUSD. Except to the extent caused by the gross negligence or willful misconduct of City or NVTA or any person or entity under the City's or NVTA's explicit direction or control, District shall indemnify, defend, and hold City, and NVTA, their officers, agents, employees, members of their Council and members thereof, free and harmless from any and all liability, claims, loss, damages, or expenses (including attorneys' fees and fees of any required experts or consultants) resulting from the negligent or intentional misconduct or breach of this Agreement by the District or its employees or agents.

20. Independent Contractor Status. This Agreement is not intended to and shall not be construed to create the relationship of principal-agent, master-servant, employer-employee, partnership, joint venture, or association between the Parties, or any of them; no Party is an officer of any other. Each of the Parties, their agents, officers, employees, and volunteers, in their performance under this Agreement, shall act in an independent capacity from each other.

21. Notices. All notices or other communications required or permitted under this Agreement shall be deemed duly given, if in writing, and signed by the Party giving the notice, and delivered personally, or sent by a reputable overnight courier service (with package tracking capability), or certified mail, with return receipt requested, and first-class postage prepaid, addressed as follows, and with a copy sent via email:

**Napa Valley Unified School District**

Attn: Assistant Superintendent of Business Services  
2425 Jefferson Street  
Napa, CA 94558  
Email: [rmangewala@nvusd.org](mailto:rmangewala@nvusd.org)

**City of Napa**

Attn: Breyana Brandt, Parks & Recreation Director  
1500 Jefferson Street  
Napa, CA 94559  
Email: [bbrandt@cityofnapa.org](mailto:bbrandt@cityofnapa.org)

**Napa Valley Tennis Association**

Attn: Board President  
1375 Trower Ave  
Napa, CA 94558

Email: [damian@firststandmainpm.com](mailto:damian@firststandmainpm.com)

NVTA acknowledges that all communication under this Agreement shall be solely between the Parties, and NVTA further acknowledges that it will not communicate with the staff of Vintage High School or any other individual District schools to discuss this Agreement or its usage of the Facilities under this Agreement.

22. Governing Law. This Agreement shall be governed by and interpreted under the laws of the State of California applicable to instruments, persons, transactions and subject matter which have legal contacts and relationships exclusively within the State of California. Any action or proceeding seeking any relief under or with respect to this Agreement shall be brought solely in the Superior Court of the State of California for Napa County, subject to any transfer of venue as required by law.

23. Severability. If any provision or any part of this Agreement is for any reason held to be invalid and/or unenforceable or contrary to public policy, law, statute, or ordinance by a court of competent jurisdiction, the remainder of this Agreement shall not be affected thereby and shall remain valid and fully enforceable; provided, however, that if the invalidity or unenforceability of any provision of this Agreement results in a material failure of consideration, then the Party adversely affected thereby shall have the right in its sole discretion to terminate this Agreement by providing written notice of such termination to the other Party.

24. Assignment. NVTA may not assign, sublet, or transfer any of its obligations, rights, or duties under this Agreement without the prior written consent of the District. Any such purported assignment or transfer shall be void, and shall constitute a material breach of this Agreement.

25. Amendment. Each of the Parties acknowledges and agrees that this Agreement may be amended only by a writing signed by both the Parties and approved or ratified by the governing boards of both Parties.

26. Entire Agreement. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof, and no prior agreement, statement, promise, or representation made by any party, employee, officer, or agent which is not contained herein shall be binding or valid.

27. Execution in Counterparts. This Agreement may be executed in counterparts, each of which shall constitute an original of the Agreement. Copies of signature pages transmitted to either Party via email or facsimile shall be deemed equivalent to original signatures on counterparts.

28. Warrant of Authority. Each of the persons signing this Agreement represents and warrants that such person has been duly authorized to sign this Agreement on behalf of the Party indicated, and each of the Parties by signing this Agreement warrants and represents that such Party is legally authorized and entitled to enter into this Agreement.

29. No Property Interest Created. The NVTA License, the City License and this Agreement does not create any interest for NVTA, the City, or any other person or entity in the Facilities or the School Site or any property owned or maintained by District, and is not coupled with any property interest or other interest. The NVTA License is personal to NVTA and is not assignable without first obtaining District's consent, which consent may be withheld in District's sole discretion.

[Signatures on the following page.]

**IN WITNESS WHEREOF**, the Parties have executed this Agreement as of the date and year first written above.

**NAPA VALLEY UNIFIED SCHOOL DISTRICT**

By: \_\_\_\_\_  
Name: Rob Mangewala  
Title: Assistant Superintendent, Business Services  
Dated: \_\_\_\_\_

**CITY OF NAPA, a California charter city**

By: \_\_\_\_\_  
Name: Breyana Brandt  
Title: Parks & Recreation Director  
Dated: \_\_\_\_\_

**COUNTERSIGNED:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Auditor  
Dated: \_\_\_\_\_

**APPROVED AS TO FORM:**

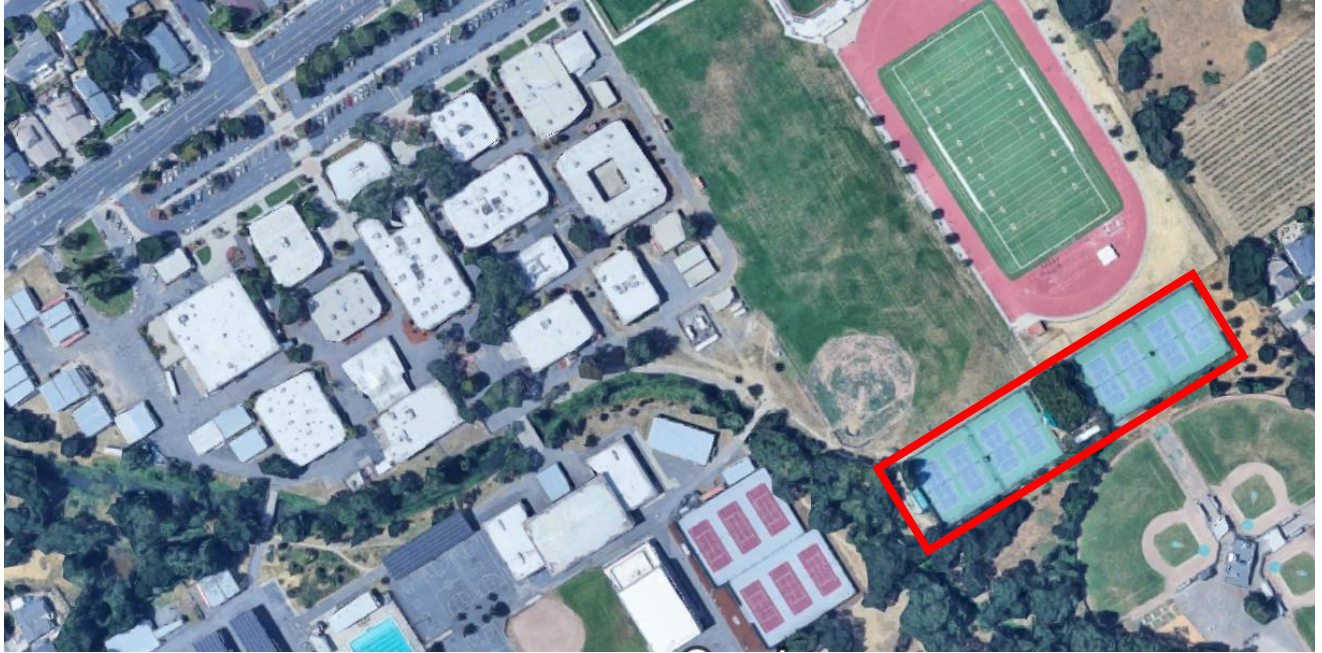
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: City Attorney  
Dated: \_\_\_\_\_

**NAPA VALLEY TENNIS ASSOCIATION**

By: \_\_\_\_\_  
Name: Damian Bennett  
Title: President  
Dated: \_\_\_\_\_

**Exhibit A**

**Facilities – Vintage High School Tennis Courts  
1375 Trower Ave. Napa, CA**





**Exhibit B**  
**Routes of Travel to the NVTA Courts**

**Monday - Friday**

Vehicles park in the parking lot from Jefferson Ave.

NVTA Members will follow the labeled path



**Saturday - Sunday:**

Vehicles can park in the main lot off Trower Avenue

NVTA Members will walk through the center of campus along the labeled path

