

**AGREEMENT CONCERNING**  
**AMERICAN YOUTH SOCCER ORGANIZATION USE OF**  
**SARATOGA UNION SCHOOL DISTRICT FIELDS**

**THIS AGREEMENT**, dated \_\_\_\_\_, by and between **Saratoga Union School District (“SUSD”)**, and **AMERICAN YOUTH SOCCER ORGANIZATION – REGION 27 (“AYSO”)**, is made with reference to the following facts:

- A.** SUSD is owner of four public schools: Saratoga Elementary, Argonaut Elementary, Foothill Elementary and Redwood Middle School located in the City of Saratoga in which the district has constructed facilities, including multi-use fields, and parking areas.
- B.** AYSO has regularly utilized the Fields located at Redwood Middle School for the conduct of games and practices during its season and desires to continue such use.
- C.** SUSD and AYSO, jointly own equipment installed within the play field areas.
- D.** SUSD and AYSO desire to execute this Agreement to establish their respective rights and obligations concerning the use and maintenance of the school play fields.

**NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:**

- 1. Term and Times of Use.** This Agreement shall become effective upon AYSO's fall season, July 1, 2019 and shall terminate June 30, 2020. The agreement shall automatically renew for two additional years through June 30, 2022 unless either party notifies the other by April 1<sup>st</sup> each year that this agreement will terminate for the succeeding year. During the term of this Agreement AYSO shall have the right to use the grass fields pursuant to this Agreement during the months of August through December (“Soccer Season”). Each year, AYSO shall inform SUSD as to (a) the anticipated specific starting and ending dates of its use of the grass fields and (b) the schedule for games and practices during the Soccer Season. Such notice shall be furnished to SUSD at least thirty

(30) days prior to the commencement of the Soccer Season. During the Soccer Season AYSO shall be entitled to the use of the district grass fields specified by SUSD during the conduct of its games and practices. At all other times, the grass fields shall remain open for use by the general public and organized activities as authorized by SUSD.

## **2. Responsibilities of the SUSD.**

SUSD shall be responsible for the following (where applicable):

- a) Grass field set up and maintenance as follows:
  - 1. Fertilization
  - 2. Core aeration
  - 3. Broadleaf weed control
  - 4. Over-seed field
  - 5. Field mowing
  - 6. Irrigation and maintenance of the grass field irrigation system
  
- b) Scheduling an annual post-season meeting to review field conditions, maintenance requirements for the grass Fields for the next soccer season.

## **3. Responsibilities of AYSO.** AYSO shall be responsible for the following:

- a) Provide own snack disbursement method as agreed on by SUSD;
- a) Clean up of litter and debris after each game or practice and deposit of all garbage in the trash containers;
- b) Ensuring the safety of all AYSO activities including supervision of parking activities to prevent unlawful damage to district or city property. All parking is restricted to school parking lots and city streets according to city penal codes. Parking on school grounds other than specified parking areas is prohibited. This includes food trucks, coaches and parents' vehicles. Violations of this policy will result in cancellation of this contract.
- c) Painting all soccer field lines and other markings. Said lines and markings are to be painted by AYSO with athletic field marking paint approved by the SUSD. No chemicals or oils may be used to burn in any lines or markings in the grass fields. AYSO shall rotate field layout and use, as feasible, in accordance with a

schedule approved by SUSD prior to the beginning of the Soccer Season. AYSO will coordinate striping schedules with the administration of each individual campus to prevent conflict with district educational programs;

- d) Installation of goal posts prior to commencement of regular playing season and maintaining goal posts in a safe condition to avoid injury or harm;
- e) Removal of goal posts at end of season and properly storing equipment in a safe condition to avoid injury and harm;
- f) Making arrangements with SUSD for a preseason inspection of the grass fields within 60 days and not more than 30 days prior to the beginning of the Soccer Season, at which time AYSO shall advise the SUSD of any objections to the condition of the grass fields. During the Soccer Season AYSO shall immediately notify the SUSD of any objections to the condition of the grass fields.
- a) SUSD support the community and residents surrounding Redwood Middle School in the promotion of a positive, caring, clean, and safe environment in which to live. AYSO should be a Good Neighbor by ensuring the following practices are followed:
  - a. Respect other people's property;
  - b. Be a part of the community;
  - c. Ensure a safe and clean environment and ensure all rubbish is properly disposed of;
  - d. Exercise responsibility for children and visitors;
  - e. Be tolerant and understanding of other residents' needs for peace and quiet and keep noise levels to a minimum (no loud music, vulgarity, etc.;
  - f. Follow regulations on parking.

All community complaints received by the District that pertain to AYSO's use of the Fields will be investigated and will be communicated to AYSO. If violations of the contract are found as a result of investigation, SUSD may cancel this contract and any funds received will be retained.

SUSD shall bear no responsibility for personal property of AYSO or any other third party either maintained, stored, or kept at the fields.

- 4. Payment.** In recognition an annual monetary contribution of five thousand (\$5,000) dollars to the district by January 15<sup>th</sup> each year made by AYSO improvements to district play fields, Saratoga Union School District will not require permit fees from AYSO during the term of this contract.
- 5. Field Use Policy.** Notwithstanding any other provision of this Agreement, either SUSD or AYSO shall have full authority to regulate the use of the Fields, including, but not limited to, regulation of field layouts and imposing field “rest” periods during the season, based upon the condition of the fields as determined by SUSD to ensure the long term health of the Fields.
- 6. Rainy Day Policy.** No games or practices are allowed if the field, as determined by the SUSD, is deemed to be in unplayable condition at game/practice time. During periods of unstable/questionable weather conditions, the SUSD will determine whether the fields at SUSD are playable. If the fields are closed due to the above conditions, the closure shall be publicized by AYSO and made available to all AYSO field users.
- 7. Penalties for Field Use Violations.** Any unauthorized use of the Field, caused by AYSO’s failure to exercise due diligence may result in a penalty, as determined by the SUSD. Unauthorized use includes, but is not limited to, any violation of the Field Use Policy or Rainy Day Policy set forth above. Penalties shall be as follows:

  - 1<sup>st</sup> Penalty during season: No use of Field for one week from the date the penalty is imposed or payment of actual damages as determined by the SUSD.
  - 2<sup>nd</sup> Penalty during season: No use of Field for one month from the date the penalty is imposed or payment of actual damages as determined by the SUSD.
  - 3<sup>rd</sup> Penalty during season: No use of Field for the remainder of season or payment of actual damages as determined by the SUSD.

- 8. Termination.** Either party may cancel this Agreement by giving written notice to the other party by April 1<sup>st</sup> for the succeeding year. Provided, however, if SUSD determines AYSO is violating any terms of this agreement or in any way engaging in activities that SUSD determines are or may be harmful or hazardous to persons or property, SUSD may at its sole discretion cancel this Agreement if after giving of written notice to AYSO to correct the violation, within thirty (30) days, AYSO has not made the necessary correction. SUSD may at its sole discretion suspend all use of the Field by AYSO pending the correction of any violation.
- 9. Contract Administration.** The Chief Business Official or designee shall administer this Agreement on behalf of SUSD. The Chief Business Official or designee has complete authority to receive information, interpret and define SUSD's policies consistent with this Agreement, and communicate with AYSO concerning this Agreement. All correspondence and other communications shall be directed to or through the Chief Business Official or designee.
- 10. Notices.** All notices or communication concerning a party's compliance with the terms of this Agreement shall be in writing and may be given either personally, by certified mail, return receipt requested, or by overnight express carrier. The notice shall be deemed to have been given and received on the date delivered in person or the date upon which the postal authority or overnights express carrier indicates that the mailing was delivered to the address of the receiving Party. The Parties shall make good faith efforts to provide advance courtesy notice of any notices or communications hereunder via email or fax. However, under no circumstances shall such courtesy notice satisfy the notice requirements set forth above; nor shall lack of such courtesy notice affect the validity of service pursuant to the notice requirement set forth above. Any Party hereto, by giving ten (10) days written notice to the other, may designate any other address as substitution of the address to which the notice or communication shall be given. Notices or communications shall be given to the Parties at the addresses set forth below until specified otherwise in writing:

Notices to AYSO shall be sent to:

Saratoga Soccer AYSO Region 27  
P.O. Box 2933  
Saratoga, CA 95070  
Phone #: 408-406-6786  
Email: commissioner@ayso27.org

Notices to SUSD shall be sent to:

Jean Aldrete  
Chief Business Official  
Saratoga Union School District  
20460 Forrest Hills Drive  
Saratoga, CA 95070  
Fax: (408) 867-0777

**11. No Agency.** Except as SUSD may specify in writing AYSO shall have no authority, express or implied, to act on behalf of the SUSD in any capacity whatsoever as an agent. AYSO shall have no authority, express or implied, pursuant to this Agreement to bind SUSD to any obligation whatsoever.

**12. Compliance with Laws.** Contractor shall observe and comply with all laws, policies; general rules and regulations established by SUSD and shall comply with the common law and all laws, ordinances, codes and regulations of all other governmental agencies, (including federal, state, municipal and local governing bodies).

**13. Controlled Substances.**

a. AYSO and AYSO's employees and volunteers shall comply with the SUSD's policy of maintaining a drug-free workplace. Neither AYSO nor AYSO employees and volunteers shall unlawfully manufacture, distribute, dispense, possess or use controlled substances, as defined in 21 U.S. Code Section 812, including marijuana, heroin, cocaine, and amphetamines, at the Fields. If AYSO or any employee or volunteer of AYSO is convicted or pleads nolo contendere to a criminal drug

statute violation occurring at the Fields, then AYSO, within five days thereafter, shall notify the SUSD.

- b. **Smoke Free Environment.** No Smoking permitted on school grounds/buildings at any time.
- c. **No alcoholic beverages, intoxicants or controlled substances in any form shall be brought onto property of the SUSD.** Violation of this regulation shall be justification for immediate termination of the event, closing of the facility and denial of future use requests.

**14. Discrimination Prohibited.** AYSO assures and agrees that AYSO will comply with Title IX of the Civil Rights Act of 1964 and other laws prohibiting discrimination and that no person shall, on the grounds of race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam era veteran's status, political affiliation, or any other non-merit factors be excluded from participating in, be denied the benefits of, or be otherwise subjected to discrimination under this Agreement.

**15. Indemnification of SUSD.** AYSO and SUSD agree that SUSD, its employees, agents and officials shall, to the fullest extent permitted by law, be fully protected from any loss, injury, damage, claim, lawsuit, cost, expense, attorneys fees, litigation costs, defense cost, court costs or any other cost arising out of or in any way related to the negligent acts, errors or omissions, or willful misconduct of AYSO or conduct for which the law imposes strict liability on AYSO in connection with this Agreement. Accordingly, the provisions of this indemnity provision are intended by the parties to be interpreted and construed to provide the fullest protection possible under the law to the SUSD. AYSO acknowledges that SUSD would not enter into this agreement in the absence of the commitment of AYSO to indemnify and protect SUSD as set forth below.

- a. To the fullest extent permitted by law, AYSO shall defend, indemnify and hold harmless SUSD, its employees, agents and officials, from any liability, claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind whatsoever without restriction or limitation, incurred in relation to, as a consequence of or arising out of or in any

way attributable actually, allegedly or impliedly, to the negligent acts, errors or omissions, or willful misconduct of the AYSO (including, but not limited to, damage or injury resulting directly or indirectly from soccer balls exiting the Fields, during AYSO practice or games) or conduct for which the law imposes strict liability on the AYSO in the performance or failure to perform this Agreement. All obligations under this provision are to be paid by AYSO as they are incurred by the SUSD.

- b.** Without affecting the rights of SUSD under any provision of this agreement or this section, AYSO shall not be required to indemnify and hold harmless SUSD as set forth above for liability attributable to the fault of SUSD, provided such fault is determined by agreement between the parties or the findings of a court of competent jurisdiction. This exception will apply only in instances where and only to the extent that SUSD is shown to have been at fault.
- c.** The obligations of AYSO under this or any other provision of this Agreement will not be limited by the provisions of any workers' compensation act or similar act. AYSO expressly waives any statutory immunity under such statutes or laws as to SUSD, its employees and officials.
- d.** Failure of SUSD to monitor compliance with these requirements imposes no additional obligations on SUSD and will in no way act as a waiver of any rights hereunder. This obligation to indemnify and defend SUSD as set forth herein is binding on the successors or assigns of AYSO and shall survive the termination of this agreement or this section. By execution of this Agreement, AYSO acknowledges and agrees that it has read and understands the provisions hereof and that this paragraph is a material element of consideration. SUSD approval of the insurance contracts required by this Agreement does not relieve the AYSO from liability under this paragraph.
- e.** SUSD shall give AYSO prompt written notice if SUSD becomes aware of any actual or potential Claim. AYSO shall have the sole right to control the defense and settlement of

any Claim for which it is providing indemnification. SUSD may, however, at its own expense, participate in the defense of any Claim. SUSD shall provide such assistance and information as AYSO may reasonably request in the defense of any Claim. SUSD shall take all reasonable steps to limit any Claim. SUSD shall not enter into any settlement or compromise of any Claim for which it seeks to be indemnified by AYSO or that results in any admission of liability or wrongdoing on the part of AYSO, without the prior written consent of AYSO.

**16. Insurance Requirements.** AYSO shall procure and maintain for the duration of the Agreement “occurrence coverage” insurance as specified below against claims for the injuries to persons or damages to property which may arise from or in connection with AYSO’s use and maintenance of the Fields and the performance of the obligations hereunder by AYSO, its agents, representative or employees.

**a. Minimum Limits of Insurance.** AYSO shall maintain limits no less than:

**A. General Liability:** \$1,000,000 combined single limit per occurrence for bodily injury, personal injury, and property damage.

**B. Workers’ Compensation and Employers Liability** limits of \$1,000,000 per accident, if AYSO has any employees.

**b. Other Liability Coverage,**

**1. General Liability Coverage.**

**a.** The SUSD, its officers, officials, employees and volunteers are to be covered as insured as respects: liability arising out of activities performed by or on behalf of AYSO. The coverage shall contain no special limitations on the scope of the protection afforded to the SUSD, its officers, officials, employees or volunteers.

**b.** AYSO’s insurance shall be primary insurance as respects to the SUSD, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the SUSD, its

officers, officials, employees or volunteers shall be excess of AYSO's insurance and shall not contribute with it.

c. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the SUSD, its officers officials, employees or volunteers.

d. AYSO's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

**2. Worker' Compensation and Employers Liability Coverage.**

The insurer shall agree to waive all rights of subrogation against the SUSD, its officers, officials, employees and volunteers for losses arising from work performed by AYSO for the SUSD, if AYSO has any employees.

**3. All Coverages.**

Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in its limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the SUSD.

a. Acceptability of Insurers. Insurance is to be placed with insurers with Bests' rating of no less than A: VII.

b. Verification of Coverage. AYSO shall furnish SUSD with certificates of insurance and with original endorsements effecting coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be received and approved by the SUSD before AYSO may make use of the fields. The SUSD reserves the right to require complete, certified copies of all required insurance policies, at any time.

**17. Parties in Interest.** This Agreement is entered only for the benefit of the parties executing this Agreement and not for the benefit or any other individual, entity or person.

**18. Successors and assigns.** This Agreement shall inure to the benefit of and shall be binding upon the successors of the parties hereto by merger, consolidation, incorporation of an existing unincorporated association or the formation of additional branches, divisions or regions. But otherwise this Agreement is neither transferable nor assignable.

**19. Cancellation of prior agreement.** This Agreement supersedes any and all agreements, either oral or written, between the parties hereto with respect to AYSO's use of the Fields (including any prior agreements between SUSD, AYSO and other parties) and contains all of the covenants and agreements between the parties with respect to their respective rights and obligations concerning the Fields. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement or promise not contained in this Agreement shall be valid or binding. No amendment, alteration, or variation of the terms of this Agreement shall be valid unless made in writing and signed by the parties hereto.

**20. Authority.** Each signatory hereto hereby represents and warrants that he or she is duly authorized to enter this Agreement on behalf of the entity to be bound by this Agreement.

**IN WITNESS WHEREOF**, the parties have executed this Agreement the day and year written below.

AYSO a California Nonprofit Corporation:

By: Charlie Bedard

Date: \_\_\_\_\_

Name: Charlie Bedard

Title: Regional Commissioner

SARATOGA UNION SCHOOL DISTRICT

By: \_\_\_\_\_

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_