

**SECOND AMENDMENT TO CITY OF INDIAN WELLS
SPONSORSHIP AGREEMENT**

This Second Amendment to the City of Indian Wells Sponsorship Agreement, is made and entered into this 28 day of February, 2002 by and between Desert Champions LLC, a California limited liability company ("Desert Champions"), and the City of Indian Wells, a municipal corporation of the State of California ("City").

RECITALS

- A. PM Sports Management Corporation, a California corporation ("PM Sports"), International Merchandising Corporation, an Ohio corporation ("IMC"), Desert Champions LLC, a California limited liability company ("Desert Champions"), and Garden of Champions LLC, a California limited liability company ("Garden of Champions" and collectively with the above entities, the "Tennis Entities") and City entered into an agreement dated as of October 28, 1998 entitled "City of Indian Wells Sponsorship Agreement" (the "Original Agreement").
- B. The Original Sponsorship Agreement was amended as of January 21, 1999 by the First Amendment to the Sponsorship Agreement (the "First Amendment"). The Original Agreement as amended by the First Amendment, is referred to herein as the Sponsorship Agreement.
- C. The rights and obligations of the Tennis Entities under the Sponsorship Agreement were assigned to Desert Champions by an Assignment and Assumption Agreement dated September 20, 2001 (the "Assignment").
- D. Desert Champions desires to sell to City, and City desires to purchase from Desert Champions, a "Presenting Sponsorship" package for the 2002 Tournament which will be evidenced by a separate agreement.
- E. In consideration for City's purchase of a Presenting Sponsorship package for the 2002 Tournament, the parties have agreed to further amend the Sponsorship Agreement to accomplish the following:
 - I. Extend the Initial Term by three years;
 - II. Relocate the sky suite within the Stadium provided to City under Section 4.3(h);
 - III. Implement the purpose of the Assignment by substituting "Desert Champions" for "the Tennis Entities" in respect of any and all rights

and obligations of any of the Tennis Entities under the Sponsorship Agreement; and

- IV. Require Desert Champions to maintain certain insurance coverages.
- F. Capitalized terms not defined herein shall have the meaning ascribed thereto in the Sponsorship Agreement.

Now, therefore, the parties have agreed to amend the Sponsorship Agreement as follows:

- 1. Section 2.1 is amended to read as follows:

2.1 Initial Term. This Agreement became effective upon its execution by all parties and shall conclude on December 31, 2012 (the "Initial Term") unless terminated sooner in accordance with the terms hereof.

- 2. Section 2.2(a) is amended to read as follows:

This Agreement shall be extended for an additional 10 year period (the "First Extension Term") unless City notifies Desert Champions in writing on or before January 1, 2012 of its election not to extend the Initial Term. This Agreement shall be extended for another 10 year period (the "Second Extension Term") unless City notifies Desert Champions in writing on or before January 1, 2022 of its election not to extend the First Extension Term.

- 3. Section 4.3(g) is amended to read as follows:

Section 4.3(g). City shall be provided with up to 250 megabytes of data storage space on the Indian Wells Tennis Garden web server (www.iwtg.net or another web server under Desert Champions' direct control) (the "Tournament Web Site"), if there is one and to the extent the Tournament Web Site is controlled in all or in part by Desert Champions, which may be used by City for promotional and marketing purposes promoting City as a resort destination including, but not limited to promotional banners and other information about City and its Golf Resort and the resort properties (presently the Hyatt Grand Champions, the Indian Wells Hotel, the Miramonte and the Renaissance Esmeralda which may be mentioned in the context of the foregoing (collectively, "Web Promotions"); provided however that City may not include anything which conflicts with or violates any of the other agreements Desert Champions or Garden of Champions LLC (an affiliate of Desert Champions) (the "Other Agreements"). Desert Champions represents to City that no current Other Agreement would prohibit City with respect to

Web Promotions. Desert Champions shall provide City with shared, direct, password protected access to that portion of the server, reserved for City's use. City is solely responsible for any content that is placed on the Tournament Web Site and shall pay all development, production and bandwidth usage costs relating thereto including for any subsequent changes and updates that are made. Desert Champions shall provide a hyperlink on the Tournament Web Site to the City's Web Site. The parties agree that said link may be "framed" whereby material or pages from the linked web site appear in a frame on the web site which creates the link.

The parties expressly recognize their individual obligations and responsibilities for the content, quality, accuracy and/or completeness of materials contained on their respective web sites and agree to defend and hold each other harmless from damages that may arise from the permitted use of, or the inability to use as permitted herein, each other's web site and/or the materials contained on either site whether the materials contained on the site are provided by City or Desert Champions.

4. Section 4.3(h) is amended to read as follows:

City will be entitled to the exclusive use of Suite 212 (which use includes fifty-four (54) passes for the suite and twelve (12) VIP parking passes) for all events held within the Stadium during the Term of this Agreement, except for events that are not open to the public.

5. Adding a new Section 4.3(i) as follows:

With respect to the Tournament and other events at which City has rights to use a suite at the Stadium, DC will obtain and keep in full force and effect during the term of this Agreement, comprehensive general liability insurance coverage, including personal injury, bodily injury (including wrongful death) and not less than Three Million Dollars (\$3,000,000) per occurrence. City shall be an additional insured under said insurance and the carrier of said insurance shall issue a certificate to that effect. The certificate shall be a broad form additional insured endorsement, providing for not less than thirty (30) days advance written notice to City from the insurer of any cancellation or expiration thereof. Such insurance shall be issued by insurer(s) authorized to do business in California and with a financial rating of B+ or above.

6. As a consequence of the Assignment, the Sponsorship Agreement shall be deemed amended so that any right or obligation of "the Tennis Entities" or any of them, shall instead be a right or obligation of Desert Champions.

7. Except as modified by this Second Amendment, the Sponsorship Agreement remains in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Second Amendment as of the date set forth above.

CITY OF INDIAN WELLS, a municipal corporation of the State of California

By: *Conrad Negron*
Conrad Negron, Sr.
Mayor

DESERT CHAMPIONS LLC, a California limited liability company

By: PM Sports Tournament, LLC, a California limited liability company, Member

By: _____
Name: _____
Title: _____

ATTEST

Ginda Turbell
~~City Manager~~ / City Clerk

By: Athlone, LLC, a California limited liability company, Member

By: *Raymond J. Moore*
Name: Raymond J. Moore
Title: Manager

By: International Merchandising Corporation, Member

By: *David A. Osborne, Jr.*
Name: David A. Osborne, Jr.
Title: Senior Staff Vice President and Treasurer

APPROVED AS TO FORM

John L. Cook
City Attorney

APPROVED AS TO LEGAL FORM

PSS/ME