

Management Agreement

This MANAGEMENT AGREEMENT ("Agreement") is made and entered into as of December 31, 2023 (the "Effective Date") by and between the City of Grand Island, a (hereinafter referred to as "Owner"), and Shooting Park Operations, LLC a Nebraska limited liability company (hereinafter referred to as "Manager").

Recitals

Owner desires to provide for the operation and management of the Heartland Public Shooting Park, maintenance building and appurtenances, and any other related facility owned by Owner and situated on the real property located at 6788 W Husker Hwy, Alda, NE 68810, commonly known as Heartland Public Shooting Park (collectively referred to as the "Shooting Park").

Manager is a wholly owned subsidiary of Hornady Manufacturing Company, a Nebraska corporation ("Hornady").

Owner and Manager acknowledge and agree that Manager shall use its relationship with Hornady to facilitate the management and operation of the Shooting Park.

Owner desires to retain Manager to manage and operate the Shooting Park on behalf of Owner pursuant to the terms and conditions of this Agreement.

Agreement

The parties agree as follows:

1. TERM OF AGREEMENT.

1.1. Term. The term of this Agreement will begin on the Effective Date and terminate five (5) years from the Effective Date (the "Term"), unless sooner terminated according to the terms and provisions hereof. This Agreement shall renew annually for successive one (1) year terms upon expiration of the Initial Term unless written notice of non-renewal is received at least one (1) year in advance of non-renewal. Upon expiration of this Agreement, Manager will have the first right of refusal for renewal of the Agreement.

1.2. Early Termination. The parties agree that either party may terminate this Agreement upon at least one (1) year's written notice prior to the effective date of termination.

2. SERVICES TO BE PERFORMED BY MANAGER. During the Term of this Agreement, Manager will supervise, manage, direct and operate the Shooting Park, which will include, but not be limited to, collecting and disbursing all monies, negotiating and managing leases and contracts, employing (or contracting with Hornady for the leasing of) all employees, promoting and managing the Shooting Park, purchasing and selling food, beverages, merchandise, supplies and services, purchasing and maintaining insurance coverage to protect assets of, and insure against liabilities related to, the Shooting Park, handling disputes with third parties, collecting and paying all appropriate taxes and performing all other day- to-day activities relative to the Shooting Park. With respect to the operation of the Shooting Park, the parties hereto agree as follows:

2.1. Owner Authorization. Owner hereby grants and delegates to Manager the authority and the responsibility necessary to permit Manager to perform its duties under this Agreement and to do any and all acts deemed necessary or desirable for the operation and maintenance of the Shooting Park and agrees to take such additional steps as are necessary to evidence such delegation and authorization as is reasonably requested by Manager. Owner hereby grants to Manager the right to use and occupancy of the Shooting Park during the Term of this Agreement or any renewal hereof for said purposes. Owner will not grant to any third party any rights to use or occupancy of all or any part of the Shooting Park during the Term of this Agreement without Manager's prior written consent, nor will Owner interfere with Manager's ability to perform its duties under this Agreement consistent with Manager's good faith business judgment.

2.2. Promotion of Shooting Park Activities. Manager will implement a marketing plan for the Shooting Park and coordinate and direct all work done in the promotion, advertisement, and public relations with respect to the Shooting Park. Manager will coordinate the creation or modification of graphics, logos, and other visual materials for letterheads, envelopes, temporary and permanent signs, brochures, websites, information profiles, progress reports, press releases and bulletins. Manager may indicate on the premises and on such promotional, advertising, and public relations materials that the Shooting Park is being managed by Manager. Any re-branding shall be done with the consent of Owner. Owner agrees not to unreasonably withhold its consent to any such re-branding.

2.2.1. Manager shall coordinate with existing leagues and associations to host competitions at the Shooting Park and shall seek out new leagues and associations to increase the number of competitions scheduled at the Shooting Park. Manager shall support the leagues, matches, and associations scheduling competitions at the Shooting Park while maintaining fair and equitable competition access. Manager shall consummate arrangements for competitions with shooting associations and leagues, as well as

concessionaires, licensees, or other group event users of the Shooting Park.

2.2.2. Manager shall implement a strategic marketing plan utilizing the Hornady brand in accordance with terms of the applicable agreements and/or licenses granted by Hornady to Manager, the hunting and shooting sports industry, and the City of Grand Island to promote the Shooting Park as defined in their Proposal dated August 21, 2023.

2.2.3. Manager will link any new website for the Shooting Park to the City's website.

2.2.4. Manager agrees to refrain from any political speech on all advertising materials related to the Shooting Park.

2.3. Hours of Operation. Manager shall be open to the public for not less than thirty-two (32) hours per week. Daily hours shall be determined by Manager.

2.4. Shooting Park Personnel.

2.4.1. Manager will, in its sole discretion and at the expense of the Manager, employ (or contract with Hornady for the employment of or leasing of) the Shooting Park personnel appropriate for the efficient operation of the Shooting Park. Such personnel will be hired, employed, evaluated, promoted and terminated by Manager. In no event shall any employees employed by Manager at the Shooting Park be considered employees of the Owner, nor shall any of Manager's employees be eligible for any benefits or pay from the Owner. At all times, Manager shall provide the Owner with the names and current telephone numbers (business, cell phone, and home number, if applicable) of any managers or employees charged with supervising access to the Shooting Park.

2.4.2. Manager shall make a good faith effort to interview and consider for employment any employee who is currently employed by Owner at the Shooting Park, but Manager (and Hornady) shall not be obligated to offer employment to any such employees, nor shall they be obligated to maintain existing employees, job titles, job descriptions, pay or benefits. Manager shall comply with all federal, state, and local laws and regulations pertaining to equal employment opportunity, Americans with Disabilities Act, and prohibition of unlawful discrimination in all hiring and employment decisions. Manager shall promote a safe and drug-free work environment.

2.4.3. Owner's current Shooting Park employees' employment with the Owner shall terminate on or before December 31, 2023. Owner shall be responsible for all actions that must be taken to terminate the current Shooting park employees' employment. The Owner employee currently occupying the house will no longer reside in said house by December 31, 2023. The Owner agrees to be responsible, at the Owner's sole cost and expense, for any actions necessary to secure the

possession of the house. Owner shall prepare the house for transfer no later than January 31, 2024. Manager shall have the opportunity to inspect the house prior to the transfer of the same. Upon transfer, the house shall be vacant and in satisfactory condition, as reasonably determined by Manager.

2.5. Point of Sale System.

- 2.5.1. Manager shall provide their own point of sale system. Manager will be given up to 90 days of access to Owner's current point of sale system but understands that all funds transferred through Owner's system will be deposited into Owner's account. Owner will, at the request of Manager, remit any funds obtained through Manager's use of Owner's point of sale system in a single transaction to occur within 60 days of March 31, 2024. If Manager wishes for these funds to be transferred, Manager will provide written notice by March 31, 2024 and will provide an accounting of all transactions Manager believes were processed through Owner's system. No later than April 1, 2024 Manager will obtain and implement an independent point of sale system and will cease use of Owner's system.

2.6. Maintenance Services.

- 2.6.1. Owner will continue to own the real estate and equipment currently on site and as defined in Exhibit C. Manager will maintain the existing facilities and equipment. Major repairs to facilities and real estate shall be a Capital Expenditure that is agreed upon by both Parties.
- 2.6.2. Manager shall maintain the Shooting Park, grounds, and landscaping within the boundaries of the Shooting Park. Manager shall also maintain the Shooting Parking area in a good and usable condition, including sanitation, pot-hole repairs, and signage, but excluding Capital Improvements.
- 2.6.3. Prior to assumption of responsibility, Owner and Manager shall conduct a review of all inventory of the Shooting Park, including but not limited to, the status of buildings, facilities, and equipment. A written inventory is included as Exhibit C and shall be updated quarterly by the Manager. Manager shall purchase or lease additional, or replacement machinery and equipment as needed at the expense of Manager. Any machinery or equipment purchased by Manager hereunder shall remain the property of Manager following termination or expiration of this Agreement. The Parties shall meet and review/inspect inventory prior to implementation of this Agreement and Manager will notify the Owner of any inventory Manger does not wish to accept.

- 2.6.4. Manager shall be responsible for the maintenance and repair, and for purchasing all supplies, parts, and equipment for all buildings, structures, fixtures, and Owner-owned equipment, which may now or hereafter exist on or in the Shooting Park, inclusive but not limited to the maintenance of the landscaping, irrigation system, maintenance buildings, grounds and paths, excluding Capital Improvements.
- 2.6.5. Manager shall exercise general supervision over and shall be responsible for the proper use, care, and maintenance of all Owner-owned equipment used for operations, inclusive of but not limited to mowers, utility vehicles, golf carts, tractors, telehandler/s, power equipment, etc. Manager shall keep a log of repairs to equipment, which shall be available for the Owner to review at any time. If equipment becomes inoperable, inefficient, or unsafe, Manager shall immediately provide Owner written notice. The decision to replace Owner's equipment is solely at the Manager's discretion and expense. Equipment and parts damaged by the gross negligence of Manager or Manager's employees or agents shall be repaired or replaced by Manager at Manager's expense. Manager shall ensure all employees, users, or occupiers of owner-owned property and equipment are legally permitted to use, possess, or access said property and shall indemnify Owner in the event a claim arises out of unlawful use, access or possession permitted or authorized by Manager or its employees. In the event Manager replaces Owner's equipment at Manager's expense, Manager will provide notice to Owner and will arrange return of said equipment to Owner for disposition.
- 2.6.6. Owner will permit Manager reasonable use of the Owner's Information Technology assets including point of sale systems (see 2.5.1) during the first 90 days of this Agreement. Owner will assist Manager in facilitating use of Owner's social media accounts and website during this time period and will provide assistance in transferring management of account information to the extent those accounts can be separated from the Owner's primary accounts. Owner will remove its time clock, microwave tower and switch infrastructure, and laptops obtained with restricted funds.

2.7. General Operations.

- 2.7.1. Manager agrees to enforce all rules and regulations adopted by the Owner covering the conduct of the public and services offered in the use of the Shooting Park as it relates to the performance of services under this Agreement. Owner agrees to provide Manager with a copy of any

proposed rules and regulations to be adopted by Owner hereunder, before the same are enacted, so that Manager may provide feedback to Owner on how the rules and regulations may impact the ongoing operation of the Shooting Park. Any such rules and regulations shall not unreasonably interfere with Manager's management and operation of the Shooting Park. Manager shall cooperate with law enforcement as needed in order to enforce all laws of the State of Nebraska and the United States of America.

- 2.7.2. Manager shall take all reasonable actions to protect the safety of all employees, customers, and Owner's representatives. Manager shall comply with all safety and environmental regulations of federal, state, and local governmental agencies, and applicable federal occupational, health, and safety laws and regulations. Manager shall correct or abate any unsafe conditions to the Shooting Park at their expense. Manager shall cooperate fully with the Owner in the investigation of any crime, accidental injury or death occurring at the Shooting Park and shall submit within twenty-four (24) hours to the Owner an incident report.
- 2.7.3. Manager shall be responsible for securing necessary contracts or other appropriate agreements to acquire electricity, water, sewer, solid waste, and other utility services necessary for the normal operations of the Shooting Park.
- 2.7.4. Snow removal shall be done by Manager.
- 2.7.5. Manager shall be responsible to consummate arrangements with concessionaires, licensees, etc. that may be associated with the Shooting Park. All leases, contracts, purchases and other agreements relating to the operation and maintenance of the Shooting Park entered into during the Term shall be entered into by the Manager as the contracting party and managed by Manager.

2.8. Additional Duties and Responsibilities of Manager.

- 2.8.1. Manager shall not make structural alterations, additions, changes, or revisions in excess of \$30,000 to the real property or improvements thereon without prior written consent of the Owner. Such consent not to be unreasonably withheld.
- 2.8.2. Manager shall provide assistance and consulting services to the Owner in the transition of management and operations of the Shooting Park if a new operating entity (Manager) is selected or if the Owner assumes operations

of the Shooting Park. The parties acknowledge and agree that such assistance and consulting services shall be limited to no more than a ninety (90) day period.

- 2.8.3. Owner will provide all reasonable assistance to Manager to effect the transfer of management from Owner to Manager no later than December 31, 2023.
- 2.8.4. Manager shall abide by current leases attached as Exhibit A between various parties and Owner concerning use of the Shooting Park and Shooting Park property.
- 2.8.5. Manager shall be allowed use of the house on the Shooting Park property for event purposes related to this Agreement. Manager shall not rent to third parties not associated with public activities at the Park. After the first year, the parties shall reevaluate use of the house to determine if any adjustments to this provision should be made.

3. REVENUES; EXPENSES; RESERVES. During the Term of this Agreement or any renewal hereof, Managers shall assume all operating expenses of Shooting Park and will receive all revenue derived from operation.

- 3.1. Management Fee. During the Initial Term of this Agreement, Owner shall pay to Manager the annual sum of twenty-eight thousand dollars (\$28,000.00) to be paid quarterly to offset the cost of utilities. Such quarterly payments shall be made on or before January 1, April 1, July 1, and October 1, respectively during the term of this Agreement; except that the initial quarterly payment shall be made within 45 days of execution of this agreement. Upon renewal, the management fee shall be increased by the twelve-month Consumer Price Index adjustment provided by the U.S. Bureau of Labor Statistics September report.
- 3.2. Financial Reports. Quarterly reports, as defined by the City and attached as Exhibit B to this Agreement, shall be submitted to the City Administrator. Manager shall receive the quarterly payment upon submission of the quarterly financial report, inclusive of an updated inventory list.
- 3.3. Approved Capital Expenditures. "Approved Capital Expenditures" means all expenditures for structures, equipment and fixtures that become part of the Shooting Park in excess of thirty thousand dollars (\$30,000.00). Manager shall have prior approval from Owner, not to be unreasonably withheld, for all capital expenditures. In the event of an emergency, Manager is also authorized to make an otherwise unapproved capital expenditure in order to prevent loss or damage. Manager will notify Owner immediately of such expenditure.
- 3.4. Structural Changes. Any structural changes to the Shooting Park shall have prior written approval of Owner. Structural changes shall be done by written agreement providing for disposition of property should this Agreement terminate for any

reason.

4. DEFAULT.

4.1. Events of Default. Any one or more of the following events will, unless cured within the specified cure period, constitute an event of default of this Agreement ("Default"):

4.1.1. Either party's failure to timely pay any sums payable pursuant to this Agreement when and as the same become due, which non-payment remains uncured for a period of thirty (30) days after written notice thereof from the other party to the defaulting party;

4.1.2. A discontinuance by either party of its business, filing of a bankruptcy petition, or any other action relating to the insolvency of either party; or

4.1.3. A material breach of any material term or provision of this Agreement by either party, which remains uncured thirty (30) days after written notice thereof from the other party to the defaulting party or such longer period of time as may be reasonably required to cure such breach, provided that the defaulting party promptly commences to remedy such breach within the thirty (30) day cure period and thereafter continues diligently to complete such cure.

4.2. Owner's Remedies. In the event of a Default by Manager, Owner may terminate this Agreement upon expiration of the specified cure period by delivering to Manager written notice of its election to terminate the Agreement, provided that Manager has not timely cured the Default. In such event, Owner will pay Manager all amounts owed to Manager as of date of written notification of termination.

4.3. Manager's Remedies. In the event of Default by Owner, Manager may terminate this Agreement upon expiration of the specified cure period by delivering to Owner written notice of its election to terminate the Agreement. In such event, Owner will pay to Manager all amounts due to Manager hereunder to the date of termination

4.4. Remedies Not Exclusive. No remedy granted to Owner or Manager is intended to be exclusive of any other remedy provided herein or by law, but each will be cumulative and will be in addition to every other remedy given herein or existing at law or in equity, subject to Section 7 below.

5. TERMINATION OR EXPIRATION OF AGREEMENT. Upon termination or expiration of this Agreement, the parties will take the following actions no later than the effective date of such termination or expiration:

- 5.1. Transfer of Shooting Park and Property. Manager will vacate and surrender the Shooting Park to Owner and transfer to Owner possession of all property belonging to the Shooting Park or Owner, including, but not limited to, inventories of merchandise, food, beverages, and supplies; equipment, furniture and fixtures; prepaid accounts and deposits; contract rights; trade names; licenses and permits; and Shooting Park books and records (collectively, the "Property"). Notwithstanding the foregoing, the parties acknowledge and agree that any equipment, machinery, or other property purchased by the Manager hereunder shall remain the separate property of Manager.
- 5.2. Liabilities to be Assumed. Owner will assume and agree in writing to indemnify Manager against all obligations and liabilities relating to the Shooting Park, other than contingent tort liabilities which result from the intentional wrongdoing or gross negligence of Manager. Liabilities which Owner assumes, or against which Owner must indemnify Manager, will include all debts and other contractual obligation arising out of the operation of the Shooting Park.
- 5.3. Payment. All sums owed by either party to the other pursuant to this Agreement will be paid within thirty (30) days of the effective date of termination or expiration of this Agreement.
- 5.4. Assets. Manager shall be allowed to remove all Manager tagged assets of a non-permanent nature, except those included on quarterly inventory reports as owner-owned or which replaced owner-owned assets which were replaced due to actions of the Manager other than routine use, replacement or which were removed from the inventory upon agreement of the Manager and Owner. Manager reserves the right to sell said assets to Owner upon termination of this Agreement. Permanent assets or structures shall be transferred by written Agreement.
- 5.5. Survivability. The provisions of this Section 6 will survive the termination or expiration of this Agreement.

6. INDEMNITY.

- 6.1. Obligations of the Manager. All obligations and costs to defend all disputed claims arising out of or resulting from Manager's activities conducted in connection with or incidental to this Agreement will be paid by Manager. Manager will keep Owner advised of any such matters.
- 6.2. Indemnification by Manager. Manager will indemnify, hold harmless and

defend Owner, its managers, officers, directors, agents, authorized representatives and employees, from and against all liability for any and all claims, liens, suits, fines, losses, demands or actions for damages, injuries (including death) to persons, property damage (including loss of use), and expenses, including court costs and reasonable attorneys' fees and other reasonable costs, arising out of or resulting from the breach of any representation or warranty by Manager, or from Manager's intentional misconduct or gross negligence in operating the Shooting Park or by the actions of third parties permitted use of the Shooting Park without sufficient insurance, indemnification or waivers of liability.

6.3. Indemnification by Owner. Owner will indemnify, hold harmless and defend Manager, its members, managers, officers, agents, authorized agents, and employees, from and against all liabilities for any and all claims, liens, suits, fines, losses, demands or actions for damages, injuries (including death) to persons, property damage (including loss of use), and expenses, including court costs and attorneys' and consultants' fees and other reasonable costs, arising out of, involving, or resulting from the operation of the Shooting Park by Manager (excluding intentional malfeasance or gross negligence by Manager), the breach of any representation or warranty by Owner, any act, omission or neglect of Owner, its agents, contractors, employees or invitees, or a Default by Owner, or arising out of, involving, or resulting from all liabilities and obligations transferred, assumed or to be assumed by Owner in accordance with Section 9 of this Agreement.

6.4. Limitation of Liability. Notwithstanding anything contained herein to the contrary, the liability of Manager to Owner hereunder will be limited to insurance coverage limits, and in no event will any other assets of Manager or any constituent member or other affiliate of Manager be subject to any claim arising out of or in connection with this Agreement.

6.5. Notice of Claims. Manager and Owner will provide each other with prompt written notice of any event covered by the indemnity provisions of this Agreement and in the event a claim or action is filed, each party may employ attorneys of its own choosing to appear and defend the claim or action on its behalf. Failure to provide such notice, however, will not limit any party's indemnity obligations hereunder.

7. INSURANCE. Manager will obtain insurance of the types and in the amounts set forth below from an underwriter(s) licensed to do business in the state in which the Shooting Park is located. Manager will furnish certificates of insurance to Owner evidencing the required insurance on or before the Effective Date or the Insurance Coverage Date (defined below), as applicable, and thereafter will furnish new

certificates upon request.

7.1. Type and Amount of Insurance. The type and/or minimum amount of insurance to be obtained by Manager in the name of and/or on behalf of the Shooting Park shall be as listed below. Each coverage shall meet, or exceed, the amounts required by law and will include provisions which indemnify the Owner from any claims made as a result of, or stemming from, this Agreement, Manager, or Manager's employees and which waive subrogation in favor of the Owner:

7.1.1. Worker's Compensation coverage or other employment liability insurance as Manager deems sufficient to provide coverage for their employees.

7.1.2. Commercial General Liability to include coverage for the following: (a) Premises/Operations; (b) Independent Contractors; (c) Personal Injury; (d) Liquor Liability; and (e) Products/Completed Operations. Such coverage must be maintained in an amount not less than \$1,000,000 per occurrence and \$2,000,000 aggregate. Owner will be named as an additional insured on a primary and non-contributory basis.

7.1.3. Property Insurance on all real and personal property including replacement cost coverage.

7.1.4. Comprehensive Automobile Liability to include coverage for any Manager owned or operated vehicles used on the property or in furtherance of this Agreement and any Owner-owned vehicles operated by and through this Agreement.

7.1.5. Commercial Umbrella Liability with no less than \$5,000,000 limit.

7.1.6. Additional Insurance Requirements. With respect to the above-described insurance, the policies shall provide for thirty (30) days' written notice of any material change, termination or cancellation to Owner. Further, the policies procured in the name of and/or on behalf of the Shooting Park will provide primary and non-contributory coverage for all losses and damages covered thereby.

7.2. Insurance Coverage Date. Manager's obligation to procure the insurance coverages required by Sections 7.1, except for coverage related to Manager's employees and vehicles, shall not be required to become effective until the earlier of (i) 60 days following the Effective Date, or (ii) within 21 days following Manager's receipt from Owner of all information reasonably requested by Manager related to the Shooting Park's insurance coverage and loss history prior to the Effective Date (the "Insurance Coverage Date"). Prior to the Insurance Coverage Date, Owner will be responsible for providing the coverages required by Sections 7.1 on its real and

personal property, and Manager shall be responsible for all insurance related to its employees, vehicles, and general operations. Manager shall have no obligation to ensure the adequacy of coverage prior to the Coverage Date.

7.3. Covenant of Cooperation. Manager will provide Owner with prompt written notice of any material damage, loss or injuries suffered at the Shooting Park, significant complaints, whether written or otherwise, about the Shooting Park or its management, and actual or anticipated disputes with or claims by third parties, including, but not limited to, adjacent landowners. Manager further covenants to cooperate with Owner in resolving any such complaints, disputes or claims and Owner covenants to cooperate with Manager in resolving any such complaints, disputes or claims.

8. OWNER'S REPRESENTATIONS AND WARRANTIES. To induce Manager to enter into this Agreement, Owner makes the following representations and warranties to Manager:

8.1. Each of the Recitals set forth in this Agreement is true and correct.

8.2. Owner is the lawful owner of the land.

8.3. Owner has power and authority and all legal rights to enter into and perform this Agreement. The individual executing this Agreement on behalf of Owner has the authority to do so and to so legally bind the Owner. This Agreement, when duly authorized, executed and delivered by the parties hereto, will create a valid and binding obligation on the part of Owner, enforceable against Owner in accordance with its terms.

8.4. There are no actions, suits or proceedings pending or, to the knowledge of Owner, threatened against Owner or affecting Owner, the Shooting Park or any of Owner's assets, properties or rights, at law or in equity, by or before any court, arbitrator, administrative or governmental body or other person. Except as previously disclosed in writing to Manager, Owner is not in violation or default with respect to any applicable law or regulation which affects the Course or the condition (financial or otherwise) of the Owner and the Shooting Park fully complies with all applicable federal, state and local laws, ordinances, regulations, orders and directives.

8.5. Except as provided herein, Owner has not granted to any person or entity not a party to this Agreement any rights of use or occupancy of the Shooting Park, or any part or portion thereof, including but not limited to any leasehold rights or interests.

8.6. The Shooting Park is adequate and in sufficiently good condition for Manager to operate a shooting range, clubhouse and other services contemplated by the terms of this Agreement. The Shooting Park has all water and utility hook-ups necessary to operate the range, clubhouse and other services contemplated by the terms of this Agreement.

9. MANAGER'S REPRESENTATIONS AND WARRANTIES. To induce Owner to enter into this Agreement, Manager makes the following representations and warranties to Owner:

9.1. Each of the Recitals set forth in this Agreement is true and correct.

9.2. Manager is a duly organized and validly existing limited liability company in good standing under the laws of the State of Nebraska and is duly qualified to do business in the state in which the Shooting Park is located.

9.3. Manager has the full power and authority and all legal rights to enter into and perform this Agreement and any other agreement referred to herein and contemplated by this Agreement. The individual executing this Agreement on behalf of Manager has the authority to do so and to so legally bind the Manager. This Agreement, when duly authorized, executed and delivered by the parties hereto, will create a valid and binding obligation on the part of Manager, enforceable against Manager in accordance with its terms.

10. ENVIRONMENTAL INDEMNITY. Owner agrees to indemnify, defend and hold harmless Manager from any and all claims, damages, fines, judgments, penalties, costs, liabilities or losses (including, without limitation, any and all sums paid for settlement of claims, attorneys' fees, consultant and expert fees) arising during or after the Term of this Agreement or in connection with the presence or suspected presence of Hazardous Substance (as defined below) in or on the Shooting Park, unless the Hazardous Substance is present solely as the result of the gross negligence or willful misconduct of Manager or Manager's employees. Without limitation of the foregoing, this indemnification will include any and all costs incurred between investigation of the site through the time of completion of any clean-up, removal or restoration mandated by a federal, state or local agency or political subdivision, unless the Hazardous Substance is present solely as a result of the gross negligence or willful misconduct of Manager or Manager's employees. This indemnification will specifically include any and all costs due to Hazardous Substance which flows, diffuses, migrates or percolates into, onto or under the Shooting Park after the Agreement Term commences. As used herein, "Hazardous Substance" means any substance which is toxic, ignitable, reactive or corrosive and/or which is regulated by the State of Nebraska or the United States Government. "Hazardous Substance" includes any and all material or substances which are defined as "hazardous waste," "extremely hazardous waste," or "hazardous

substance," pursuant to state, federal or local governmental law and includes, but is not limited to, asbestos, radon, PCBs and petroleum and petroleum• containing products. This provision will survive the termination of this Agreement.

11. RELATIONSHIP OF THE PARTIES. The relationship between Owner and Manager will be and at all times remains that of owner and independent contractor, respectively. Neither Owner nor Manager will be construed or held to be a partner, limited partner, associate or agent of the other, or be joint venturers with one another. Neither Owner nor Manager will be authorized by the other to contract any debt, liability or obligation for or on behalf of the other except as specifically provided for herein.

12. NOTICES. Except as otherwise specifically provided herein, any and all notices required or permitted under this Agreement must be in writing and will be deemed delivered (i) upon personal delivery, (ii) upon mailing thereof when properly addressed and deposited in the United State Mail, first class postage prepaid, registered or certified mail, return receipt requested, (ii) when properly addressed upon deposit with Federal Express, Express Mail or other trackable overnight courier service, or (iv) when sent by email if receipt of the email content can be confirmed, with time of receipt being the uniform time the email enters the information processing system that the recipient has designated or uses for the purpose of receiving email. Notices will be properly addressed if addressed to the parties as follows:

If to Owner:	City of Grand Island Attn: City Clerk & City Administrator P.O. Box 1968 Grand Island, NE 68802 Email: jillg@grand-island.com & lauram@grand-island.com
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If to Manager:	Shooting Park Operations, LLC Attn: Steve Hornady 3625 W. Old Potash Hwy Grand Island, NE 68803 Email: shornady@hornady.com
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The addresses for notices may be changed by written notice given to the other party as provided above.

13. GENERAL TERMS.

13.1. Further Acts. Each party to this Agreement agrees to execute and deliver all documents and instruments and to perform all further acts and to take any and all further steps that may be reasonably necessary to carry out the provisions of this Agreement and the transactions contemplated herein.

- 13.2. Section Headings. The various section, subsection, paragraph, subparagraph, and clause headings in this Agreement are for convenience and reference only and in no way define, limit, extend or interpret the scope or interpretation of this Agreement or of any particular section, subsection, paragraph, subparagraph and clause contained herein.
- 13.3. Interpretation. Unless the context requires otherwise, words used in the singular number include the plural and vice-versa.
- 13.4. Amendments and Waivers. This Agreement can be modified only by written instrument executed by the parties hereto. Any waiver of any provision of this Agreement must be made in writing executed by the party who could demand fulfillment of such waived provision.
- 13.5. Dispute Resolution.
- 13.5.1. Owner and Manager are fully committed to working with each other so as to avoid or minimize disputes or disagreements. If disputes or disagreements do arise, Owner and Manager will first attempt to resolve such disputes or disagreements through discussions between senior representatives of Owner and Manager. Unless otherwise specified by written notice to the other party hereunder, the senior representatives of Owner and Manager shall be the City Administrator or their designee for the Owner and Steve Hornady or his designee for Manager. Upon the request of either party, such representatives will meet as soon as conveniently possible, but in no case later than thirty (30) days after such a request is made, to attempt to resolve such dispute or disagreement. Prior to any meetings between the senior representatives, the parties will exchange relevant information that will assist the parties in resolving their dispute or disagreement.
- 13.5.2. If a meeting between the senior representatives does not result in a resolution satisfactory to both parties, Owner and Manager agree that the parties will attempt to resolve their dispute through use of a mediator. If the parties are unable to successfully resolve their dispute through mediation or cannot agree upon a mediator then either party may commence an action in the Nebraska state courts.
- 13.6. Waiver of Consequential Damages. Notwithstanding anything herein to the contrary, neither Owner nor Manager will be liable to the other for any special, consequential or exemplary damages or losses of any kind, whether arising in contract, warranty, tort (including negligence), strict liability or otherwise, including, but not limited to, losses of use, profits, business, reputation, or

financing.

- 13.7. Assignment. Neither party can assign this Agreement or its rights, duties and obligations hereunder without the prior written consent of the other party, which consent must not be unreasonably withheld.
- 13.8. Successors and Assigns. This Agreement is binding upon and will inure to the benefit of the parties hereto and their respective permitted successors and assigns.
- 13.9. Governing Law. This Agreement will be construed under and in accordance with the laws of the State of Nebraska.
- 13.10. Counterparts; Electronic Signatures. This Agreement and all amendments and supplements to it may be executed by the parties in separate counterparts and by facsimile transmission or electronic transmission in PDF format, each of which when so executed and delivered shall be an original, and all such counterparts and facsimile or electronic copies shall together constitute one and the same instrument.
- 13.11. Severability. Should one or more of the provisions of this Agreement be determined to be illegal or unenforceable, the other provisions nonetheless will remain in full force and effect. The illegal or unenforceable provision or provisions will be deemed amended to conform to applicable laws so as to be valid and enforceable if such an amendment would not materially alter the intention of the parties.
- 13.12. Entire Agreement. This Agreement (together with any attached exhibits) constitutes the entire agreement between the parties concerning the subject matter of this Agreement, and supersedes all prior agreements, arrangements, understandings, restrictions, representations or warranties, whether oral or written, between the parties relating to the subject matter of this Agreement.
- 13.13. Outside Businesses. Nothing contained in this Agreement will be construed to restrict or prevent, in any manner, any party or any party's affiliates, parent companies, or representatives or principals from engaging in any other businesses or investments, nor will Owner or Manager have any right to share or participate in any such other businesses or investments.
- 13.14. Approvals. Any consent or approval referred to herein (by whatever words used) of either party must not be unreasonably withheld, delayed or conditioned, and neither party may seek or obtain any payment as a condition therefor. In the event that either party refuses to give its consent or approval to any request by the other, such refusing party must indicate by written notice to

the other the reason for such refusal.

- 13.15. No Third-Party Beneficiaries. Nothing herein contained will be deemed to establish any rights of third parties against the parties hereto, it being the intent that the rights and obligations set forth herein are those of the parties hereto alone, with no third party beneficiary rights intended.
- 13.16. Survival. All covenants, agreements, representations, and warranties made herein will survive the execution and delivery of (i) this Agreement, and (ii) all other documents and instruments to be executed and delivered in accordance herewith and will continue in full force and effect during the Term of this Agreement.
- 13.17. Force Majeure. The provisions of this Section 13.17. will be applicable if there occurs during the Term any (i) strikes, lockouts, or labor disputes, (ii) inability to obtain materials or reasonable substitutes therefore, (iii) acts of God, governmental restrictions, regulations, or controls, enemy or hostile governmental action, civil commotion, fire, or other casualty, or (iv) other conditions similar to those enumerated in this section beyond the reasonable control of the party obligated to perform. If either party, as a result of any of the above-described events, fails punctually to perform any obligation on its part to be performed under this Agreement (an "Unavoidable Delay"), then, upon written notice to the other, within thirty (30) days of such Unavoidable Delay, such failure will be excused and not be a breach of this Agreement by the party claiming the Unavoidable Delay, but only to the extent occasioned by such Unavoidable Delay. If any right or option of either party to take any action under or with respect to the Term is conditioned upon the same being exercised within any prescribed period of time or at or before a named date, then such prescribed period of time or such named date will be deemed to be extended or delayed, as the case may be, upon written notice, as provided above, for a time equal to the period of the Unavoidable Delay. Notwithstanding anything contained herein to the contrary, the provisions of this section will not be applicable to either party's obligation to pay any sums, monies, costs, charges, or expenses required to be paid pursuant to the terms of this Agreement.
- 13.18. Liquidated Damages. Parties shall be entitled to liquidated damages of one hundred dollars (\$100.00) per day for any uncured breach of this Agreement upon expiration of the cure period.
- 13.19. GIPD Access. GIPD shall be granted use of the Shooting Park for not less than 129 days for 326 hours of use. Details as to timing, access and use of the Shooting Park shall be defined by separate agreement between the parties. Any expenses related to GIPD's use will be at the agency's expense.

13.20. Exclusivity. The Parties acknowledge and agree that Manager (and Hornady) shall not have an exclusive obligation to manage the Shooting Park and that Manager (and Hornady) may manage and operate other shooting parks or facilities as part of Manager's (and Hornady's) general business operations.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date set forth above.

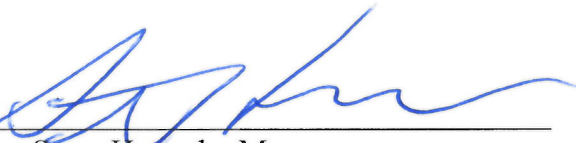
City of Grand Island, a Municipal Corporation
and Political Subdivision of the State of Nebraska

By: 
Roger G. Steele, Mayor

Attest:


Jill Granere, Deputy City Clerk

Shooting Park Operations, LLC
a Nebraska limited liability company

By: 
Steve Hornady, Manager

Approved as to form:


Karl Fisk, City Attorney